

SELECTED TESTIMONY FROM
PREVIOUS CONGRESSIONAL HEARINGS
ON CIA RETIREMENT MATTERS

INCLUDED

- TAB A - House Committee on Armed Services Sub Committee #1, July 1963. Consideration of Bill to amend the CIA Act of 1949 to provide a special Retirement System for the Agency patterned on the Foreign Service Retirement System.
- TAB B - House Armed Services Sub Committee substitution for TAB A Amendment for consideration of a new Bill to provide for establishment and maintenance of a CIA Retirement and Disability System and for other purposes.
- TAB C - Committee of the Whole House on the State of the Union consideration of a Bill (H.R. 8427) for the establishment and maintenance of a CIA Retirement and Disability System for a limited number of employees and for other purposes.

[No. 26]

SUBCOMMITTEE NO. 1 CONSIDERATION OF H.R. 7216, TO AMEND THE
CENTRAL INTELLIGENCE AGENCY ACT OF 1949, AS AMENDED,
AND FOR OTHER PURPOSES

HOUSE OF REPRESENTATIVES,
COMMITTEE ON ARMED SERVICES,
SUBCOMMITTEE No. 1,
Washington, D.C., Tuesday, July 23, 1963.

The subcommittee met at 10 a.m., Hon. L. Mendel Rivers, chairman of the subcommittee, presiding.

Mr. Rivers. Let the committee come to order

Mr. McCone has another very important engagement, and he asked that after his statement he be excused. And, of course, we want to accommodate him. And he is late now. So I will ask the committee to come to order, and let us begin the hearings on this very important piece of legislation.

Members of the committee, we are meeting this morning to begin hearings on H.R. 7216, a bill to amend the Central Intelligence Agency Act of 1949. Mr. McCone and General Carter are here to testify in support of this bill.

Gentlemen, we are very pleased to have you here, Mr. McCone, with the members of your staff, and I am sure that this will be an enlightening session for all of us.

Now, this looks like a very complicated bill. Actually, almost all of the provisions currently exist as law applying to executive agencies. The first part of the bill contains technical amendments to bring the CIA Act up to date on such things as travel and medical benefits. It also contains a proposed new section authorizing the Agency to receive gifts from individuals and business organizations.

However, by and large, the main purpose of this bill is to authorize CIA to establish a special retirement system for a limited number of their employees and we will go into that part first. The system is identical, or almost identical, to the retirement system of the Foreign Service and I am advised that it does not provide anything new.

I will not ask Mr. McCone to discuss all of this at this time. Mr. McCone will present a general statement on this bill and answer a few general questions. Then, because much of the specific discussion will involve classified information, of course we will have to go into executive session.

Mr. McCone, I would like to ask you and your people as they testify on the retirement system to point out anything that is different from the Foreign Service system. This committee has jurisdiction over CIA but it is not expert in the Foreign Service retirement system which, as it stands today, is the result of some 40 years' of experience.

(5783)

98-066-63-No. 26-1

5784

Since it is proposed to adopt this system, I want to be sure that any changes are reviewed by the committee.

I would like to say that in my opinion we should not adopt the section in the retirement title which allows additional credit for duty at unhealthful posts. This is section 253. We repealed this authority for military personnel years ago and I don't believe it should be re-instituted for a quasi-military organization such as the CIA.

In discussing the retirement provisions, I will ask the witnesses to give us full informaton on the crediting of prior military service for CIA retirement purposes. In the nature of things, CIA can be expected, particularly if the dual compensation and dual employment laws are revised, to look to former or retired military personnel as prospective employees.

However, I could also emphasize that none of us here are as familiar with the Foreign Service retirement system as we are with the military retirement system. Thus we will want to know, in particular, any parts of the bill that would give the CIA any benefits or advantages that do not now exist for Foreign Service employees.

In addition, we will expect a full explanation as to how the CIA plans to utilize the forced attrition authority contained in section 234(c).

We also should receive a full explanation as to any retroactive benefits or application of the proposal, and, finally, full information concerning future costs.

(H.R. 7216 is as follows:)

[H.R. 7216, 88th Cong., 1st sess.]

A BILL To amend the Central Intelligence Agency Act of 1949, as amended, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Central Intelligence Agency Act Amendments of 1963".

SEC. 2. The Central Intelligence Agency Act of 1949, as amended (50 U.S.C. 403(a) et seq.), is further amended as follows:

(1) Amend section 3 by deletion of subsections (a) and (b) and substitute therefor:

"(a) In the performance of its functions, the Agency is authorized to exercise the authorities contained in sections 2301; 2302 (2) and (3); 2303 (b) and (c); 2304(a) (1), (2), (3), (4), (5), (6), (10), (12), (15), and (17); 2305; 2306; 2307; 2312; and 2383 of title 10, United States Code.

"(b) In the exercise of the authorities granted in subsection (a) of this section, the term 'Agency head' shall mean the Director and the Deputy Director."

(2) Amend section 3(d) by deletion of the wording "section 2(c) and section 5(a) of the Armed Services Procurement Act of 1947" from the first sentence and substitute therefor, "section 2304(a) and section 2307 of title 10, United States Code." Further amend section 3(d) by deletion of the wording "section 2(c), by section 4 or by section 5(a) of the Armed Services Procurement Act of 1947" from the second sentence and substitute therefor, "section 2304(a), by section 2306 or by section 2307 of title 10, United States Code".

(3) Amend section 4 by adding the following new paragraphs (1)(G) and (1)(H), and (S), and further amend section 4 by deletion of the words "Under such regulations as the Director may prescribe, the Agency, with respect to its officers and employees assigned to duty stations outside the several States of the United States of America, excluding Alaska and Hawaii, but including the District of Columbia, shall—" and substitute therefor, "Under such regulations as the Director may prescribe, the Agency, with respect to its officers and employees assigned abroad to duty stations outside the several States of the United States of America, excluding Alaska and Hawaii, but including the District of Columbia, may—".

5785

THRU

5794

CONTINUATION

HR 7216

5795

This is not classified?

Mr. McCONE. It is unclassified. It is a very general statement, sir.

Mr. RIVERS. Fine.

STATEMENT OF JOHN A. McCONE, DIRECTOR OF CENTRAL INTELLIGENCE

Mr. McCONE. It gives me great pleasure to appear before you to open the hearings on H.R. 7216, to amend the Central Intelligence Act of 1949 in the manner which will be discussed in detail by me and my deputy, General Carter—

Mr. RIVERS. Could you speak just a little louder, please?

Mr. McCONE (continuing). And other representatives of the Central Intelligence Agency this morning.

It is my pleasure to introduce them.

On my right is Lt. Gen. Marshall S. Carter, who is the Deputy Director of Central Intelligence.

Mr. Richard Helms, Deputy Director for Plans.

And Mr. Lawrence R. Houston, who is the General Counsel of the Central Intelligence Agency.

I have now been associated with the Central Intelligence Agency for almost 2 years and I have been Director since the 29th of November 1961.

During the period of my service with Secretary Forrestal in 1947 and 1948, and as Under Secretary of the Air Force in 1950 and 1951, and more recently as Chairman of the Atomic Energy Commission in 1958 to 1961, I naturally had a very considerable contact with CIA. Hence, through direct participation in recent years, and through a less intimate but still important contact over a long period of time, I have been able to personally evaluate the quality, integrity, and the dedication of the employees of the Agency.

It is my belief that the caliber of the personnel of the Agency is unequalled in any other agency of Government and, for that matter, any private industry with which I have been associated. I can say very frankly that I have never been surrounded by a group of men of greater intellectual quality or more sincere dedication of purpose than the men associated with me in the Central Intelligence Agency.

For the most part, the senior men and women in the Agency possess a most unusual academic background, and, in addition, extending over a high degree of professionalism gained through uninterrupted service extending over a great many years with the CIA and its predecessor organizations.

With world conditions as they are, and in view of the serious responsibilities assigned to the Central Intelligence Agency by law or by Presidential directives, I believe it essential that the superb quality of men and women of CIA be maintained and indeed be improved, and, moreover, that the dedication of these employees be recognized by the provision of adequate benefits.

I believe the enactment of this legislation will be a positive step in this direction. The legislation will significantly improve the career structure of the Agency and will permit greater efficiency in personnel management of the Agency.

As this committee knows, this legislation is designed to establish a Central Intelligence Agency retirement system which will be similar

5796

to the retirement system of the Foreign Service, which extends also to personnel of other departments of Government who operate extensively abroad. This retirement system differs importantly from that of the Civil Service, which is designed to meet the requirements of domestic employment.

Other provisions of the bill are mainly technical in nature and merely bring the Central Intelligence—

Mr. GAVIN. I wonder if the gentleman will talk a little louder, please.

Mr. McCONE. Yes.

Other provisions of the bill are mainly technical in nature and merely bring the Central Intelligence Agency Act of 1949 in line with authorities already existing in the Foreign Service Act, and in other legislation. Some of these arrangements are new to CIA, but none is new in Government, and there are precedents for each one as will be shown in today's presentation.

The task of the Central Intelligence Agency is a most serious and difficult one. We are charged by law with the responsibility of furnishing to the President and his policy advisers evaluations concerning the intentions of other countries, most particularly of the Communist bloc. Upon these evaluations hinge a great many basic decisions which affect the security and the future of the United States, and, for that matter the free world.

We in the Government can afford nothing less than the best in personnel who shoulder this responsibility, and the proposed Central Intelligence Agency retirement system will in my opinion do a great deal in maintaining the quality of that which we now have and in encouraging its continual improvement.

I therefore heartily endorse this legislation, and I urge its early and favorable consideration by the Congress.

As this committee knows, Lt. Gen. Marshall Carter, Deputy Director of Central Intelligence, serves as the General Manager of the Central Intelligence Agency. This is a necessary arrangement if I, as the President's principal intelligence officer, am to be free to consider problems of the intelligence community as a whole.

General Carter, therefore, is the man in CIA most familiar with all of the details of this legislation and best equipped to present the matter to you and to answer your questions.

However, this is a subject which has been close to me in CIA and in the State Department when I was studying this problem as a member of Secretary Dulles' personnel policy committee, and also in the Defense Department as well.

In introducing General Carter and asking that he continue this presentation, I wish to assure you of my support of this legislation and my desire to answer any questions you may care to direct to me.

General Carter.

Mr. RIVERS. Are there any questions to the Director? Because he has a very important engagement.

Mr. BENNETT. Was an approximation made on the cost of this?

Mr. RIVERS. General Carter is going to testify to the cost of everything.

Mr. McCONE. That is correct.

General CARTER. Yes, sir; I will testify subsequently.

5797

Mr. RIVERS. Since General Carter will be the principal representative of Mr. McCone, unless the committee has any special questions of the Director, we could excuse him and just hear from General Carter, who will be here—you will be here all the time?

General CARTER. Yes, sir.

Mr. RIVERS. Are there any questions of the Director?

(No response.)

Mr. RIVERS. Mr. McCone, we thank you for coming up and for your testimony. We will excuse you now, because I know of your important meeting. We will hear from General Carter, and, if we need you, we will send for you.

Mr. McCONE. Thank you very much, Mr. Chairman.

Mr. RIVERS. Thank you very much.

General Carter, we will hear from you now.

You may proceed, sir.

General CARTER. As you have been told by Mr. McCone—

Mr. RIVERS. Now, do we have a copy of your statement?

General CARTER. Yes, sir; I shall follow closely our statement of justification and explanation, which has been distributed to you.

Mr. RIVERS. Let us find your statement first.

General CARTER. And I shall try to answer questions as they are asked.

Mr. RIVERS. What page is this now?

Mr. BLANDFORD. It is the first page.

Mr. WILSON. Part A, first section; is that right?

General CARTER. I am now starting on part A.

Mr. BLANDFORD. Purpose.

General CARTER. Purpose of the proposed bill.

Mr. BLANDFORD. Yes, sir; section 1, improved retirement system.

Mr. RIVERS. Good. You may proceed.

General CARTER. The proposed bill permits the Agency to improve its retirement program by authorizing the establishment of a retirement system corresponding to that of the Foreign Service.

We need to attract and retain a force of highly motivated careerists who are intensively trained in unique skills. However, we are unable to provide full-term careers for many individual officers.

In order to minimize the adverse effect of necessary programs of managed attrition and to preserve our ability to recruit and retain the high-caliber personnel we need, we must make reasonable provision for the futures of those individuals whom we must separate before they have completed a full-term career of 30 years or more.

Therefore, we are adding to the Central Intelligence Agency Act of 1949, as amended, a new title II, which will establish for a limited number of our employees a retirement and disability system corresponding to that established for persons serving in the Foreign Service of the Department of State.

Section 4 of the original act was drafted to extend to Agency employees serving overseas travel expenses and oversea allowances similar to those extended to Foreign Service personnel.

Section 2 of the new act will make appropriate modification to bring this up to date.

Also included are certain other amendments which have been determined to be necessary, and which we will discuss in detail later.

Mr. HARDY. Excuse me.

579S

Mr. Chairman, are we going to come back—should we mark the point we want to raise questions on?

Mr. RIVERS. I wish that you would, because this statement is long. If the committee doesn't mind, I would like for the general to complete his statement. And if you would mark it we could come back. Because I think a lot of these things—a lot of these things I believe will become clearer.

Mr. HARDY. I want to just get an understanding as to procedure, Mr. Chairman.

Mr. RIVERS. Let's do that.

General, you complete your statement, and we will come back to you.

General CARTER. Yes, sir.

As pointed out by Mr. McCone, all regular employees of the Central Intelligence Agency are at present covered by the provisions of the Civil Service Retirement Act. This coverage is appropriate for those whose conditions, obligations, and terms of service are comparable to those of Federal employees generally.

However, we have a serious problem in our need to make more adequate provision for certain of our employees who should be retired at an earlier age, and with a more equitable annuity than can be presently provided under the Civil Service Retirement Act. This need stems from the fact that we cannot provide or expect from many individuals in our service a full-term working career of 30 years or more.

The nature of our mission requires people who are highly motivated, who have developed and can develop unique skills, specialized abilities through their continuing training and service in the Agency over a long period of time. A substantial portion of our personnel accept, as do members of the military services, the obligation to serve anywhere at any time for any period of time—not at their own will, but at the direction of the Agency. And they must be available for duty on a 24-hour-a-day basis, just as are the military.

Further, the stresses and strains of uneven work periods, uncertain hours, duty in unhealthful locations, and arduous assignments, require people who have a high degree of vigor, adaptability, resilience, vitality, and endurance.

There are other factors pertaining to the individuals, themselves, which over the years limit their ability and their desire to continue in overseas service.

Our experience has shown that many officers and members of their families will in time incur physical difficulties, physical impediments, which limit or preclude their further assignment overseas. The extreme climates and inferior medical facilities in many foreign areas make living abroad less healthful than in the United States.

Americans, also because of the advances of sanitation and public health in this country, have failed to develop the natural immunities which most foreigners seem to develop, particularly in their own countries. Consequently, Americans are more susceptible than local inhabitants to the diseases of a particular area.

Finally, there is motivational exhaustion. This term is used to describe a gradual lessening of interest and enthusiasm of an officer as a result of long and continued impingements on his personal and family life.

5799

These stem from the transient nature of his assignments, complications, and restrictions of security requirements, intrusions on his family life.

The dynamic nature of intelligence work produces sudden and sometimes radical shifts in the types of personnel required and in their deployment.

Civil troubles often bring about a retrenchment of activity on the part of other U.S. Government agencies, but a reorientation and reintensification of the Agency effort.

Completion of a mission of a temporary nature or a shift in emphasis or direction of operations may result in an excess of officers who are skilled in a relatively narrow field. Their primary qualifications thus become obsolete or unneeded, and they become occupationally surplus.

The unifying bonds among all Agency personnel abroad are: First, an intensive preoccupation with securing access to information which has a bearing on U.S. intelligence requirements.

Second, the advancement of U.S. interests and objectives and combined with this is the fact that all undergo stresses and tensions, both psychological and physical, which permeate their activity at all times.

We find it increasingly necessary in our operations to impose manpower controls to insure the appropriate alinement as to age, qualifications, and other characteristics of our employees engaged in conducting or supporting foreign intelligence operations.

Insofar as possible, imbalances should be and are corrected by the reassignment of officers who cannot or should not continue such work in the field. However, even encouraged and induced attrition will continue to be necessary, and a program of managed attrition is feasible only if it is linked to a system of retirement benefits providing fair annuities to those who have earned early retirement.

Our proposed bill would provide these individuals with a more equitable annuity beginning immediately upon their separation. This would place them in a better position to accept less demanding and probably lower paid employment. It is often difficult for an Agency employee to obtain other employment. The special skills required for intelligence work developed over the years by training and experience within the Agency are not always directly applicable to other fields.

This situation is aggravated by security considerations, which do not allow an Agency employee to adequately describe to a prospective employer the substance of his Agency duties and responsibilities. There is at times a reluctance on the part of other employers, both in Government and in industry, to hire a former intelligence officer. This attitude reflects their concern particularly in private business, that the attitude of foreign officials toward their enterprises might be adversely affected if they were known to be hiring former intelligence officers.

During the past year we have separated 125 individuals from the Agency as surplus to our needs because of some or all of the various factors described above. These people have given years of competent and faithful service to the Agency, as well as to the Government. The process of terminating their employment was made the more

5800

painful because of the relatively inadequate assistance which the Agency could offer in making occupational transfers or in retiring them prematurely.

In order to minimize the adverse effect of such programs on the Agency's ability to recruit and retain the caliber of personnel we need, and particularly to minimize these effects on the dedicated personnel already in the service of the Agency, we must make better provision for the futures of those individuals who are separated before completing a full term career of 30 years or more.

An important means for doing so is to establish this retirement system, permitting earlier retirement with a more nearly adequate and equitable annuity than is possible under the civil service retirement system.

Recognizing the difficulties in developing an entirely new retirement system, the Agency examined existing systems. We have determined that the Foreign Service system fulfills Agency requirements, and is appropriate for those Agency employees whose careers involve conditions of service comparable to those of Foreign Service personnel.

In this connection, a limited number of employees of the Agency are exposed to precisely the same conditions of service as the Foreign Service. Further, by adopting a system corresponding to that of the Foreign Service the Agency can take advantage of the very considerable study and experience which have gone into its development.

In appendix II of this paper we compare the pertinent provisions of the proposed Agency retirement system with the Foreign Service and the civil service retirement systems. This is similar to a comparison appearing in the report of the House Committee on Foreign Affairs in the 2d session of the 86th Congress. It was prepared at that time in connection with proposed amendments to the Foreign Service Act of 1946 as amended, relating to the retirement system, which proposals were subsequently enacted into law.

APPENDIX II

Comparison of pertinent provisions of the civil service, Foreign Service, and proposed CIA retirement and disability systems

Items	Civil service retirement system (CSR)	Foreign Service retirement system (FSR)	Proposed CIA retirement system (CIAR)	Comments
A. Coverage.....	Government employees generally, unless temporary, intermittent or subject to another Federal retirement system.	All FSO's plus non-FSO's who have served as chiefs of mission for an aggregate period of 20 years or more; Foreign Service staff officers and employees with 10 or more years of continuous service in the Foreign Service.	Career personnel who are designated as participants in accordance with criteria established by the Director.	Agency career personnel are currently covered by civil service.
B. Contributions:				
1. Compulsory.....	6 1/2 percent of employee's basic salary; agency contribution of 6 1/2 percent of employee's basic salary.	6 1/2 percent of employee's basic salary; agency contribution of 6 1/2 percent of employee's basic salary.	Same as FSR.....	All 3 systems are the same.
2. Voluntary.....	Maximum 10 percent of total basic salary received since Aug. 1, 1920; payable in multiples of \$25.	Maximum of 10 percent of total basic salary received since July 1, 1939; payable in multiples of 1 percent.	Same as FSR.....	FSR and CIAR are approximately same as CSR.
C. Benefits:				
1. Annuitants.....	Annuity: 1 1/2 percent high-5 average years salary times 5 years; plus 1 1/4 percent times next 5 years; plus 2 percent times all years over 10 years of creditable service; annuity not to exceed 80 percent of high-5 average salary.	Annuity: 2 percent high-5 average years salary times total number years creditable service not to exceed 35 years.	Same as FSR.....	CIAR and FSR have a 2-percent formula. CSR provides maximum 80 percent high-5 average. CIAR and FSR provides maximum 70 percent high-5 average.
2. Penalty reduction for age.....	1/2 of 1 percent for each of the 1st 60 months under age 60 and 1/4 for each additional month over 60 months under age 60.	None.....	Same as FSR.....	Under CSR there is a substantial reduction in annuity for years under age 60, 15 percent when retiring at age 60. There is no reduction under FSR or CIAR.
3. Reduced annuities.....	Reduced annuity with benefits to widow or widower; corresponding benefits to each dependent child.	Surviving children, widowers, and dependent widowers may be included as survivor annuitants.	Same as FSR.....	All 3 systems have comparable survivorship benefits.
4. Survivor annuities:				
(a) Married participants.....	Basic general formula: Widow or widower (if survivor annuity elected by retiring employee): 55 percent of all or whatever portion of earned annuity specified as base. Annuity terminates on death or remarriage.	Basic general formula: Widow or widower (if survivor annuity elected by retiring employee): 1/2 of all or whatever portion of earned annuity specified as base. Annuity terminates only on death of widow or widower.	Same as FSR.....	Important difference between the CSR and FSR and CIAR is that the annuity of a surviving widow or widower terminates only in death of such survivor. CSR has a 5-percent advantage for survivor annuities due to 1962 amendment to CSR Act.

5801

APPENDIX II—Continued

Comparison of pertinent provisions of the civil service, Foreign Service, and proposed CIA retirement and disability systems—Continued

Items	Civil service retirement system (CSR)	Foreign Service retirement system (FSR)	Proposed CIA retirement system (CIAR)	Comments
O. Benefits—Continued 4. Survivor annuities—Continued (a) Married participants.....	<p>Reduction for survivor annuity: Employee's annuity reduced by 2½ percent of 1st \$3,600 of any amount specified as base for survivor benefits plus 10 percent of the amount over \$2,400 up to the full amount of employee's annuity.</p> <p>Children:</p> <p>With a surviving wife or husband: smallest of (1) 40 percent of average salary divided by number of children; (2) \$400; or (3) \$1,800 divided by number of children.</p> <p>With no surviving wife or husband: smallest of (1) ¼ average salary divided by number of children; (2) \$720; or (3) \$2,160 divided by number of children.</p> <p>Termination annuity: Children annuities terminate at age 18 (or on recovery from incapacity after 18) marriage or death. On termination of any child's annuity by death, wife or husband's annuity by death, annuities of surviving children are recomputed as though person whose annuity was terminated had not survived deceased employee.</p> <p>The annuity of an unmarried child between 18 and 21 years of age who is a student pursuing a regular full time course of study or training in residence in a high school, trade school, college, or university continues until the age of 21.</p> <p>Any person in whom annuitant has insurable interest (if survivorship and reduced annuity elected): 65 percent of participant's reduced</p>	<p>Reduction for survivor annuity: Employee's annuity reduced by 2½ percent of 1st \$2,400 or any amount specified as base for survivor benefits plus 10 percent of the amount over \$2,400 up to the full amount of employee's annuity.</p> <p>Children:</p> <p>With a surviving wife or husband: smallest of (1) 40 percent of average salary divided by number of children; (2) \$400; or (3) \$1,800 divided by number of children.</p> <p>With no surviving wife or husband: smallest of (1) ¼ average salary divided by number of children; (2) \$720; or (3) \$2,160 divided by number of children.</p> <p>Termination annuity: Children annuities terminate at age 18 (or on recovery from incapacity after 18) marriage or death. On termination of any child's annuity by death, wife or husband's annuity by death, annuities of surviving children are recomputed as though person whose annuity was terminated had not survived deceased employee.</p> <p>No comparable provision.....</p> <p>Designated beneficiary: 60 percent of participant's reduced annuity. Retiring employee's annuity is reduced 10 to 40 percent depending</p>	<p>Same as FSR.....</p> <p>Same as FSR.....</p> <p>Same as FSR.....</p> <p>Same as FSR.....</p> <p>Same as FSR.....</p> <p>Same as FSR.....</p>	<p>1962 amendment to the CSR Act increased from \$2,400 to \$3,600 the amount from which 2½ percent is taken in reducing the employee's annuity. This results in a \$90 annual advantage to a CSR retiree who elects a survivor annuity. All 3 systems are the same.</p> <p>All 3 systems are the same.</p> <p>All 3 systems are the same.</p> <p>Neither the FSR nor the CIAR has a provision similar to CSR. This provision was added to CSR in 1962 amendments to the CSR Act.</p> <p>FSR and CIAR do not require that designated beneficiary have an insurable interest. 1962 amendment to CSR increased survivor</p>
(b) Unmarried participant.....			Same as FSR.....	

5802

	annuity. Referring employee's annuity is reduced 10 to 40 percent depending on difference between his age and age of person designated to receive survivor annuity. Survivor annuity terminates on death of survivor.	on difference between his age and age of person designated to receive survivor annuity. Survivor's annuity terminates on death of survivor.		annuity to 55 percent. FSR and CIAR remain at 60 percent.
5. Death in service:				
(a) Widow-widower.....	Widow or dependent widower: 55 percent of participant's earned annuity payable until death or remarriage or until widower becomes capable of self-support.	Widow or dependent widower: 50 percent of participant's earned annuity payable until death of surviving dependent widower or until dependent widower becomes capable of self-support; however, annuity is computed as if participant had 20 years of service or by projection to mandatory retirement age for his class.	Same as FSR.....	1962 CSR amendment increased survivor annuity to 55 percent; FSR and CIAR remain 50 percent. FSR and CIAR provide continuation of widow's annuity until death and allows the survivor to receive annuity based on at least 20 years of service.
(b) Children.....	Children: With a surviving wife or husband: Smallest of (1) 40 percent of average salary divided by number of children; (2) \$500; or (3) \$1,800 divided by number of children. With no surviving wife or husband: Smallest of (1) 34 average salary divided by number of children; (2) \$720; or (3) \$2,160 divided by the number of children.	Children: With a surviving wife of husband: Smallest of (1) 40 percent of average salary divided by number of children; (2) \$400; or (3) \$1,800 divided by number of children. With no surviving wife or husband: Smallest of (1) 34 average salary divided by number of children; (2) \$720; or (3) \$2,160 divided by the number of children.	Same as FSR.....	All 3 systems are the same.
(c) Former employee or former participant eligible for deferred annuity who dies before reaching eligibility age.	If the former employee had not received a refund after his separation from Government service, the amount he paid into the civil service retirement fund, plus any accrued interest would be payable immediately after death.	If a foreign service officer who separated from class 4 or 5 and who has elected to receive retirement benefits dies before reaching the age of 60, his death shall be considered a death in the service.	Same as FSR except applicable to GS-12 and 13.	FSR and CIAR provide payment of "death in service" benefits.
6. Disability retirement.....	After 5 years of civilian service: same as full age and service benefit. (Guaranteed 40 percent of high-5 average salary or annuity projected to age 60 whichever is lower. Elective survivor benefits are based on employee's actual years of service credit. Tax exemption: Under the Federal income tax "sick pay" exclusion, up to \$100 per week of disability annuity is exempted until annuitant attains retirement age.	After 5 years of civilian service: same as full age and service benefit. (Guaranteed 40 percent of high-5 average salary or annuity projected to mandatory retirement age for his class. Elective survivor benefits are based on service credit upon which participant's annuity was computed rather than his actual years of service credit. Tax exemption: Entire disability annuity is exempted from Federal income tax.	Same as FSR..... Same as FSR..... Same as FSR.....	All 3 systems are essentially the same. HSFR or CIAR annuity to employee has been based on projecting service, survivor annuity is computed on that basis rather than the lesser actual service period. FSR and CIAR permit full exemption of disability annuity from Federal income tax. Provision for limited exemption under CSR depends on sick pay exclusion of the Internal Revenue Code.

5803

APPENDIX II—Continued

Comparison of pertinent provisions of the civil service, Foreign Service, and proposed OIA retirement and disability systems—Continued

Items	Civil service retirement system (CSR)	Foreign Service retirement system (FSR)	Proposed CIA retirement system (CIAR)	Comments
C. Benefits—Continued				
7. Deferred annuity.....	Deferred annuity payable at 62 if separated employee has 5 years of civilian service credit.	Deferred annuity payable at age 60 if separated employee has 5 years of civilian service credit.	Same as FSR.....	FSR and CIAR deferred annuity begins 2 years earlier than CSR deferred annuity.
8. Selection out/discontinued service retirement.....	A. Immediate annuity upon involuntary separation if employee meets either of the following requirements: (1) attainment of age 60 and completion of 20 years of creditable service including 5 years of civilian service; (2) Regardless of age if employee has completed 25 years of creditable service, including 5 years of civilian service. B. At employee's option, refund of contributions or deferred annuity if does not meet the above requirements.	A. Classes 1, 2, or 3: retirement on annuity computed on regular 2 percent formula. Age no factor. B. Classes 4, 5, 6, or 7: (1) separation payment of 1/2 of a year's salary rate for each year of service and proportionately for a fraction of a year, but not exceeding a total of 1 year's salary payable without interest in lump sum or 3 equal installments; (2) plus refund of contributions or deferred annuity. An immediate annuity if age 60 with 20 years service.	Same as FSR except applicable to GS grades comparable to FS classes indicated. FS classes 1 through 3 compare to GS-14 and above; FS classes 4 through 7 compare to GS-13 and below.	FSR and CIAR authorize immediate annuity regardless of age for FS classes 1-3 and GS grades 14 and above. FSR and CIAR also provide for "separation compensation" in FS 4 through 7 or GS-13 and below.
9. Disposition of contributions in excess of benefits received.....	If deceased individual's contributions are not returned in the form of annuity (to individual or his survivors), the unreturned contributions must be paid to a designated beneficiary; or in order of precedence to widow, children, parents, etc.	If deceased individual's contributions are not returned in the form of annuity (to individual or his survivors), the unreturned contributions must be paid to a designated beneficiary; or in order of precedence to widow, children, parents, etc.	Same as FSR.....	All 3 systems are the same.
D. Creditable service:				
1. Leave without pay.....	Includes leave of absence without pay granted during covered employment while performing active honorable military service. Includes leave of absence without pay granted during covered employment while receiving FEC benefits.	Includes leave of absence without pay granted during covered employment while performing active honorable military service. Includes leave of absence granted during covered employment while receiving FEC benefits.	Same as FSR..... Same as FSR.....	All 3 systems are the same. All 3 systems are the same.
2. District of Columbia employment.....	Includes civilian employment with District of Columbia government.	Includes civilian employment with District of Columbia government.	Same as FSR.....	All 3 systems are the same.
3. Transfer of funds.....	No provision.	Provides for direct transfer to FSR Fund of all regular contributions (with interest) made by officer or employee to other government retirement system under which previously covered. Funds transfer discharges other system of all bene-	Same as FSR.....	FSR and CIAR permit direct transfer of funds from CSR upon becoming a participant.

E. Reemployment of annuitants.....

If retirement is based on involuntary separation (except for age retirement) which was not due to any fault of his own, when reemployed the person's annuity will be either discontinued or withheld from salary.

(1) If the reemployment is subject to the Retirement Act, his annuity will be discontinued from the date he is reemployed and his future retirement rights will depend on the law in effect at the time he is separated from the reemployment.

(2) If the reemployment is not subject to the Retirement Act, his annuity payments will continue without interruption but his salary during reemployment will be reduced by the amount of annuity he receives. If—

(a) the annuitant's retirement was based on a voluntary separation or on an involuntary separation for cause,

(b) the annuitant was retired for age,

(c) he was a disability annuitant reemployed after reaching age 60, or

(d) he was a disability annuitant found recovered or restored to earning capacity and temporarily reemployed before reaching age 60, his annuity will continue but his salary during reemployment will be reduced by the amount of annuity he receives. If this reemployment was of a year or more duration the reemployed annuitant would be eligible for a supplemental annuity. (Reemployment service under another retirement system for Federal or District of Columbia Government employees and service in a few particular positions—the President and certain U.S. judges are not qualified for this purpose.)

fit obligations based on service involved.

A reemployed annuitant may receive the salary of the position to which he is appointed plus so much of his annuity, which when combined with the salary does not exceed the salary which such person was entitled to receive in the Foreign Service on the date of his retirement. Such reemployment does not affect the annuity earned under the Foreign Service retirement and disability system, if during the period of reemployment he is employed under another Federal retirement system. He will contribute to the other system, and it is possible to qualify for benefits under the other system.

Same as FSR.....

FSR and CIAR provides for potential higher combined income for reemployed Foreign Service annuitants and provides authority to reemploy FS retired for age.

5806

I have brought with me charts which highlight the specific features of the proposed system which are different from the civil service retirement system, and which are of particular importance in providing a suitable retirement program for the employees to be covered.

CHART 1.—Comparison of principal provisions of the civil service, Foreign Service, and proposed CIA retirement Systems

Provisions	Civil Service	Foreign Service and CIA
General:		
Employee contribution.....	6½ percent of basic pay.....	Same.
Basic annuity formula.....	Based on high 5-year-average salary: 1½ percent of high 5 times 1st 5 years' service. +1½ percent of high 5 times 2d 5 years' service. +2 percent of high 5 times remaining years service.	Based on high 5-year average salary: 2 percent of high 5 times total years' service.
Maximum annuity.....	80 percent of high 5 salary.....	70 percent of high 5 salary.
Mandatory retirement.....	Age 70 with 15 years' service.....	Career ambassador and career minister or GS-15 and above: age 65. FSO class 1 and below or GS-17 and below: age 60. Age 50, 20 years' service (full earned annuity, not reduced).
Optional retirement (immediate annuity).	Age 60, 30 years' service; age 62, 5 years' service; and age 55, 30 years' service, annuity is reduced by 5 percent.	FSO classes 1-3 or GS-14 and above: Immediate annuity at any age, 5 years' service (annuity not reduced). FSO Classes 4-7 or GS-13 and below: Separation pay at rate of 1 month's salary per year of service up to 1 year's salary; plus deferred annuity at age 60. Age 50, 20 years' service (full earned annuity, not reduced).
Discontinued service, selection out.	Any age, 25 years' service; age 50, 20 years' service (immediate, but annuity is reduced by 15 percent).	FSO classes 1-3 or GS-14 and above: Immediate annuity at any age, 5 years' service (annuity not reduced). FSO Classes 4-7 or GS-13 and below: Separation pay at rate of 1 month's salary per year of service up to 1 year's salary; plus deferred annuity at age 60. Age 50, 20 years' service (full earned annuity, not reduced).
Disability retirement:		
Age and service.....	Any age, 5 years' service.....	Same.
Minimum annuity.....	Lesser of: 40 percent high 5-year-average salary or annuity computed by extending service to age 60.	Do.
Taxability.....	Under Federal income tax "sick pay" exclusion, 1st \$100 per week tax exempt until optional retirement age.	Fully tax exempt.
Survivor annuity to widow:		
Reversion of employee's annuity.	2½ percent of 1st \$3,600 plus 10 percent of balance.	2½ percent of 1st \$2,400 plus 10 percent of balance.
Amount of widow's annuity.	55 percent of employee's basic annuity.	50 percent of employee's basic annuity.
Termination of widow's annuity.	Death or remarriage.....	Death only.
Reemployment of annuitant.....	Annuity offset against salary.....	Annuity plus salary cannot exceed basic pay at time of retirement.

The employees' contribution to the retirement system is the same under both systems, that is 6½ percent of his basic pay.

The annuity formula under Foreign Service is a straight 2 percent of the employee's average salary for his highest paid 5 years of service. Under civil service, the formula is 1½ percent for his first 5 years, 1¾ percent for the second 5, and 2 percent for the remainder.

Mr. RIVERS. You just start off with 2, don't you?

General CARTER. We start off with 2 and stay at 2, just as the Foreign Service Act.

5807

The maximum annuity under civil service is 80 percent of the employee's average high 5-year salary, while under the Foreign Service Act, and under our proposed act, it is 70 percent. However, few employees under our proposed retirement system would have enough years of service to make this difference significant.

The mandatory retirement age under civil service for all employees is 70, while it is 60 for most employees under Foreign Service. Under the proposed system, an employee can voluntarily retire at age 50 and receive the full annuity which he has earned.

Mr. BATES. That is with 20 years' service?

General CARTER. Twenty years' service at age 50.

Under the civil service retirement system, the earliest age for voluntary retirement is 55, and this is permitted only when the employee has 30 years of service. Moreover, his annuity is reduced by 1 percent for each year that he is under age 60. For example, an employee whose average high 5-year salary has been \$7,575—this is about a GS-9—and who has 20 years of service when he reaches age 50, can voluntarily retire under our proposed system and receive an annuity of \$3,030.

If his average high 5-year salary has been \$11,515—this is approximately a GS-13—he would receive an annuity of \$4,606. If his average high 5-year salary has been \$16,005—about a GS-15—his annuity would be \$6,402. If he had been under the civil service system with only 20 years' service he could not voluntarily retire. If he left the service voluntarily, he would have the option of withdrawing his contributions from civil service retirement system, or of waiting until he had reached age 62, at which time he would be eligible for a deferred annuity.

An employee who has reached age 55, and has 30 years of service, may retire voluntarily under either system. However, his annuity would be 12 percent higher under our system than under the civil service system. This is because under civil service his annuity would be reduced 5 percent because of his age, since he had not reached age 60, and the annuity formula under the proposed system is a straight 2 percent, while under the civil service system it varies from one and a half up to 2 percent depending upon years of service.

The proposed system provides an immediate annuity based on the employee's total period of service, if he is in GS grade 14 or above, and if he is retired involuntarily. If he is in grade 13 or below, he receives a separation payment equivalent to 1 month's salary for each year of service. He may also obtain either a refund of his retirement withholdings, or he can leave these amounts to his credit toward a deferred annuity at age 60. Under the civil service system an employee who is involuntarily separated at age 50 with 20 years of service or at any age with 25 years of service, can receive an immediate annuity. However, his annuity is reduced 1 percent per year for each year he is under age 60, down to age 55, and 2 percent per year for each year he is under 55 down to age 50. The maximum reduction under this formula is 15 percent.

Mr. HARDY. Mr. Chairman, I think since we have these charts on here, and we are getting into some detail here, now—I don't know whether these appear, but perhaps we ought to clear up any questions that come out here now. Otherwise, we may not get back to them.

5808

Mr. RIVERS. I think that might be a good idea. If you don't mind, General—it won't knock you off the track, because you seem to know this thing pretty much.

General CARTER. No, sir. As a matter of fact, with the exception of the explanation of these charts, my discussion on this particular portion is just about over.

Mr. HARDY. As long as we are talking about these charts, though, there are one or two questions that seem to come to my mind now. I am afraid I am going to forget them if I don't throw them out for an answer now.

Mr. RIVERS. Go ahead and ask him.

Mr. BATES. Are these in the book anywhere?

Mr. HOUSTON. Yes, sir.

Mr. BATES. Where do we find it?

Mr. HOUSTON. Tab 2.

Mr. HARDY. Of course, we may get to those when we start reading the bill.

But let me pursue this one for just a second, General, if I may.

Now, you are proposing in this bill the same provision that Foreign Service has. You have outlined them up there?

General CARTER. Yes, sir.

Mr. HARDY. Now, the question that I would like to clear up at the moment: Under this involuntary selection, or selection out as you have indicated, you say that FSO-1 to 3, or under Civil Service, GS-14 and above, would go out at any age with an immediate annuity, with 5 years' service, without any reduction in there?

General CARTER. Based on his total period of service—

Mr. HARDY. Which has to be only 5 years?

General CARTER. Yes, sir.

Mr. HARDY. Is that what it says?

General CARTER. Yes, sir.

Mr. RIVERS. If he is a GS-14 or above?

General CARTER. If he is a GS-14 or above and is retired involuntarily.

Mr. BATES. Is that for physical purposes or any purpose?

General CARTER. No, sir. This is for administrative purposes.

Mr. HARDY. That is what I wanted to understand. I don't think I am going to buy that. And I didn't realize that Foreign Service had it.

General CARTER. I would like Mr. Emmett Echols, our Director of Personnel, to respond to your question, Mr. Hardy.

Mr. ECHOLS. We have a Mr. William Woodyear here, who is an expert on the Foreign Service retirement system, and he can perhaps explain in detail why this provision is in the Foreign Service system and how it operates.

Mr. HARDY. Well, I will be glad to hear the explanation, but it is going to have to be a darned good one to convince me.

Mr. RIVERS. If we are going to get all mixed up here, then we better hold it up.

Mr. HARDY. All right. Then we will have to come up with it later. Because I have one or two other questions.

Mr. BLANDFORD. Mr. Chairman—

Mr. RIVERS. Mr. Blandford.

5809

Mr. BLANDFORD. This is the forced attrition provision, which you mentioned in your statement.

Mr. RIVERS. Yes.

Mr. BLANDFORD. And which I think should be very fully explained at this point.

Mr. RIVERS. Go ahead.

Mr. HARDY. Is that 253?

Mr. BLANDFORD. No, sir; that is something else; 253 is duty at unhealthful ports.

Mr. RIVERS. Why not take it up right now.

Mr. BLANDFORD. I think this is a good place to take up the forced attrition concept.

Mr. RIVERS. Let us thresh this out now. A lot of us have reservations.

Mr. Hardy, since you started, you go ahead.

Mr. HARDY. I would like to understand what he is talking about here. But he is going to have a hard time, I think, justifying permitting a man to go out involuntarily after 5 years of service without any reduction in his annuity, and that is regardless of his age.

Mr. STRATTON. Mr. Chairman, may I ask a question in that connection? I think it may throw some light.

Mr. RIVERS. Mr. Hardy, do you yield to Mr. Stratton?

Mr. HARDY. It is all right. Maybe if we get the explanation we will get it understood. If not—I don't have any objection to anybody contributing to it. I just want to understand it.

Mr. RIVERS. Who can contribute to Mr. Hardy's question?

Mr. ECHOLS. I think I can speak to it, sir.

Mr. RIVERS. Yes.

Mr. ECHOLS. The Foreign Service has occasion to bring in expertise for lateral entry into the service, of people who are experts in particular fields and people who have achieved stature and reputation in other fields of work, and have the skills that the Department needs. This would apply equally to CIA, upon occasion.

Now, these men who are appointed at classes 1, 2, or 3, or in our case grades 14 and above, are men who have arrived, who have stature and reputation in a particular career field in non-Government or non-Foreign Service or non-CIA, and to induce these people to give up their established positions in existing careers to come to the Government, be it the State Department or CIA, puts them in a position of jeopardy. They may or may not be successful in these new careers. There may or may not be a continuing requirement for their expertise on a career basis. So these people face peculiar risks. If in less than 5 years, or less than their normal working span, they are let out as being no longer required by the Foreign Service, or by CIA. And I believe it is this reason primarily that these people are felt to be entitled to an immediate annuity. It is not because of their grade, but because they have given up a position with industry or perhaps with another Government agency, and have subjected themselves to a lesser degree of tenure.

Mr. HARDY. I am not going to buy that one. You have the same sort of racket practiced now by some people who get jobs after retiring from the military, just in order to get social security coverage, which they did not accumulate when they were on active duty. And this is—

5810

Mr. STRATTON. Mr. Chairman.

Mr. HARDY. This is not one—unless you have a better explanation of it than that—

Mr. RIVERS. Wait a second. Let Mr. Hardy finish.

Mr. HARDY. I have enough, Mr. Chairman. I have heard enough. There are too many gimmicks can be used in this kind of an arrangement.

Mr. GAVIN. Mr. Chairman.

Mr. STRATTON. Mr. Chairman.

Mr. RIVERS. Mr. Gavin is next.

Mr. Gavin.

Mr. GAVIN. How long has this system been in effect?

General CARTER. The Foreign Service system, sir?

Mr. GAVIN. Yes.

General CARTER. 1946.

Mr. GAVIN. This retirement system we are talking about now.

General CARTER. How long have you had the Foreign Service retirement?

Mr. WOODYEAR. Since 1946.

General CARTER. Mr. Woodyear is from the Department of State, sir. He is an expert on their Foreign Service Act.

Mr. HARDY. I may offer an amendment to the Foreign Service Act to delete that section.

General CARTER. And Mr. Woodyear stated that they have had the Foreign Service Act since 1946, sir.

Mr. HARDY. Is this provision in it?

Mr. WOODYEAR. This point that you expressed concern over, sir, with respect to immediate annuity benefits for those in classes 3, 2, and 1 in the Foreign Service Officer Corps who are selected out. There is a factor that hasn't been considered here.

It is extremely rare. There is a 5-year minimum requirement that a participant have that much service before he receives the benefit. It is extremely rare. However, I can recall of no instance where any officer has been selected out with that little service, or anywhere near that little. They are older men by the time they get into class 3. They have usually come up through the career system or if they have come in through lateral entry, as has been suggested by Mr. Echols, they have had prior Government service, and they have usually had 15 or 20 years of Federal service credit which is applicable to their retirement.

Mr. HARDY. I am not talking about those. I am talking about the one that comes in and has a total of only 5 years' service, that is all.

Mr. WOODYEAR. Most unusual and most rare in the Foreign Service. I can't speak for the CIA.

Also in the Foreign Service the specialist, the usual banker or some person with a special skill that we need, would come into our Foreign Service Reserve Corps, and not become a participant in the system, but would participate in the civil service system and then go back out again.

Mr. HARDY. Under this procedure it would be possible for a person to have had 4 years in the military service, and 1 year in one of these grades, and then retire and draw an immediate annuity?

Mr. BLANDFORD. No, sir.

ss11

Mr. WOODYEAR. No, sir. He must have had at least 5 years of civilian service before he can credit any military service.

Mr. HARDY. I reckon he can count his service in civil service.

Mr. WOODYEAR. The same thing in civil service.

Mr. HARDY. I mean he could have 4 years in civil service and have 1 year in this operation.

Mr. WOODYEAR. It is possible.

Mr. HARDY. That is what I am talking about.

Mr. WOODYEAR. But unheard of as far as I know.

Mr. WILSON. Mr. Chairman.

Mr. RIVERS. Wait, now, Mr. Gavin, are you finished?

Mr. GAVIN. Yes.

Mr. RIVERS. I have to go down the line, Mr. Stratton.

Mr. STRATTON. Go ahead, Mr. Chairman.

Mr. RIVERS. Mr. Bennett.

Mr. BENNETT. I just have a very brief question.

About how many people do you estimate would this apply to? Theoretically, how many could it apply to?

General CARTER. Less than a third, probably closer to a quarter of our personnel will be eligible for the provisions of this proposed system.

All the remainder will be under standard civil service retirement.

Mr. RIVERS. Mr. Bennett, have you finished?

Mr. BENNETT. That is all.

Mr. RIVERS. I think it would be helpful to the committee, General, if you would have somebody insert in the record what are some of the requirements that make these people so special.

And there are adequate reasons, I am sure. You take a specialist, that your personnel man has referred to, whose services you seek, and who has a distinguished background in some other area of life, whom you need very badly in some part of your service. I think if we could have an explanation of these it would help the committee understand what is the reason for this.

There must be adequate reason.

Mr. BATES. Mr. Chairman.

Mr. RIVERS. Do that a little later, because Mr. Bates has a question.

I think at some time we ought to have that. Don't you think so, Mr. Blandford?

Mr. BLANDFORD. Yes, sir; I think we should.

Mr. RIVERS. Such as in language, and various things.

General CARTER. Some require technical competence or very high skills that we cannot develop in our own training programs—certain specialists, for example.

But the provisions of this particular part of the act as to GS-14's: I can't name you a single person now in the Agency who at the moment would be eligible for it because of the requirements that will be established by the Director for eligibility for this type of retirement.

Mr. BATES. Mr. Chairman.

Mr. RIVERS. Mr. Bates.

Mr. BATES. I wonder if we could get the number of those who came under this in Foreign Service? How many are you actually paying for it at this time?

Mr. WOODYEAR. Under the entire system?

5812

Mr. BATES. Under this 5-year provision in the former service today.

Mr. WOODYEAR. That would apply only to our classes 1 through 3 officers.

Mr. GAVIN. I wonder if the gentleman would talk louder. We can't hear.

Mr. WOODYEAR. That would apply to our classes 1 to 3 officers.

I would say on the average, since 1948, when we began applying the selection-out principle, there have not been more than 2 percent that were officers in those classes selected out. They would average 500.

So 10 per year may have been selected out under that provision.

Mr. GAVIN. This is being selected out, but not under the 5-year provision?

Mr. WOODYEAR. The 5-year provision would not apply otherwise unless you had disability retirement, where there would be an entirely different principle involved.

Mr. GAVIN. Well, I am talking about those who have not close to 20 years but those closer to 5 or 6 years. How many do you have of that?

Mr. WOODYEAR. The only instance in which retirement benefits would apply to an officer with 5 years' service would be if he were selected out.

Mr. GAVIN. The thing I am trying to get clear in my mind: The justification being presented by CIA is so they can attract a certain type of individual. It is not the question now of getting people out of service, as attracting this rare individual into the service. Now, you have had no cases in that particular category that have retired under the 5-year provision; is that correct?

Mr. WOODYEAR. No; that is not correct, sir.

Mr. GAVIN. Well, then, give it to me.

Mr. WOODYEAR. We have an average of at least 10 per year who have been retired involuntarily through selection out under that provision.

Mr. RIVERS. With 5 years' service?

Mr. BATES. You see, now, you are talking about selecting out. You are talking about getting rid of people. Now, that is what you are talking about.

CIA is talking about a different kind of individual, and predicates their case upon getting the head of this company, or getting this particular individual who has got rare qualifications—to get him to serve for a short period of time, up to 5 or 6 years, or something like that. You are talking about unloading people. That is a different situation.

Mr. WOODYEAR. I have to, because in the overall picture this is an incentive for recruitment.

The entire retirement system is an incentive for recruitment and retention. But it does not apply in the Foreign Service. We don't attract people to the Foreign Service because they can expect selection out with 5 years' credit and thereby get an annuity.

Mr. BATES. So your answer is "None"?

Mr. WOODYEAR. None.

Mr. BATES. That is all I am trying to get.

Now, I would like to get to CIA. Now, let's be frank about this section. Now, you went over and you selected the Foreign Service system as the one you think would be best adaptable to your particular section; that is correct, isn't it?

5813

General CARTER. Yes.

Mr. BATES. Now, is it true or not true that you came to this section and said, "Well, there it is, it looks pretty good, we will throw that in there." I mean, did you really have any need for it, or did it just happen to be one of these things where you talked about something that just happened to be in another bill? Is that the way it was, or ahead of time did you really have a need? Have you anything to justify it? Is it because it happens to be in somebody else's bill or is it something for which you really have a need?

Mr. RIVERS. Mr. Bates can really get to the meat in the coconut.

General CARTER. It appeared to be a potentially useful instrument which was available to the Foreign Service, and since our people are operating under the same circumstances, we included it.

Mr. BATES. In other words, how could we use it? And this is a pretty good justification.

All right.

Mr. BLANDFORD. Well, Mr. Chairman, there would be a difference here in this respect, that it is almost impossible, I would presume, for a Foreign Service officer to get to be a class 1, 2, or 3 officer, with less than 10 years. Because you have a system under which you appoint people as a class 7 and they work up, isn't that right?

Mr. WOODYEAR. We appoint them at class 6 usually, and they work up. Usually an officer in the class 3 would be at least age 40.

Mr. BLANDFORD. So he would have roughly 15 years of service by the time he gets to be a class 3 officer?

Mr. WOODYEAR. At least that.

Mr. BLANDFORD. So the point—I think this is the point Mr. Hardy made to start with, that your Foreign Service officer in class 1 and 3 is a different person than CIA wants to recruit, say, from industry who might be 45 years old, and whom they want for a 5-year period, and they might put him in as a GS-14 to start with. So we are really making a comparison between two different things.

Mr. HARDY. Normally, that is correct.

Mr. RIVERS. Wait a minute.

Mr. Bates, do you yield—

Mr. HARDY. But it is the unusual situation that makes it complicated.

Mr. WOODYEAR. Could I make one point, Mr. Chairman?

Mr. RIVERS. Yes, go ahead.

Mr. WOODYEAR. I am not attempting to testify in behalf of CIA's proposals. I am trying to explain the Foreign Service system.

But a selection out system which is applicable to all classes of officers, in our case classes 7 through 1, and in CIA's case class 7 through 15, is not complete unless you have this provision relating to classes 1, 2, and 3. If you are going to have a selection out system, we have found it desirable—we haven't yet sought an amendment to change it—to have this difference.

The career man who has spent 15–20 to 25–30 years in the service, and is selected out, we feel is entitled to an immediate annuity because of his term of service. The younger officer, usually 40 or below, can make an adjustment and find other employment. We feel he is entitled to a deferred annuity, which he receives at age 60, rather than at 62, as is true in the general service.

5814

I don't see how you can have a selection out system, if that is going to be used, and separate this and change the formula. It could be done, but it would not be desirable.

Mr. RIVERS. Does that complete your statement, Mr. Woodyear?

Mr. WOODYEAR. I beg your pardon, sir?

Mr. RIVERS. Are you finished?

Mr. WOODYEAR. Yes.

Mr. HUDDLESTON. Mr. Chairman.

Mr. RIVERS. Mr. Huddleston.

Mr. HUDDLESTON. General Carter, correct me if I am wrong, but the problem that CIA faces is in connection with the involuntary retirement of personnel through this selection out process, that that is the real meat and the crux of this legislation. The rest of it, as far as the optional retirement and disability retirement—that is more or less of a liberalized retirement program, a little window dressing, so to speak, to be added to the civil service provisions that are now applicable to CIA employees, but that the real problem that CIA has involves this very selection out process. That is the major problem in connection with the retirement program: is that correct?

General CARTER. Yes, I think—it is correct to this extent, sir. We are talking about involuntary retirement throughout, involuntary in that the final decision will rest with the Director whether or not to accept an application for retirement. So to this degree it is perhaps involuntary, since it is not a privilege or a right that goes along with the particular individual.

As I indicated previously, I have been through a very, very painful exercise in relieving the Agency of about 125 people. We started out with some 158. We were able to relocate some within the Agency. We were able to relocate some within other elements of the Government. But we finally got down to where there were 125 people that had to be released from our employment as being surplus to our needs in their particular skills.

This was involuntary on their part. Some of them got a very minimum civil service retirement. Others were given separation allowances which would carry them for a year or a year and a half while they sought other employment. But unless they had had long periods of service, they weren't eligible for any sort of civil service retirement that would give them anything to hang their hat on or to continue living until getting other employment.

Mr. HUDDLESTON. So the main thing that CIA wants this committee to do is to provide some statutory authority for the release of these people with short tenures who would not be eligible for a civil service retirement that would enable them to subsist—those people who have been released, and so forth, as a result of this selection out process.

It seems to me that the major point in this whole legislation is what the committee is going to do about these people who have been selected out. Do you think that is the major point in the whole bill?

General CARTER. No, sir; I don't think this is the major point.

Mr. HUDDLESTON. Well, what is the major point?

General CARTER. It is a part of it.

We are trying to provide a retirement system for a man who has performed his mission and met all of our requirements basically and at age 50 has passed beyond the ability to work for which we have

5815

a retirement—in other words, because of the nature of his occupation, and because of all the various nuances of the tasks that we assign him to. Mind you, this is not our entire personnel strength by any means. It is a maximum of about 25 to 30 percent of our people.

So that we are talking about this rare breed of cat who is serving overseas under these strenuous circumstances, over long periods of time, in operational activities. That is what we are talking about.

Mr. Huddleston. And he would be the one that would be selected out?

General CARTER. And at age 50, when we bring him back here, we have extreme difficulty in placing him in another position where we can utilize those particular talents that he has developed over the years.

So he has got to get himself completely reoriented and start out doing something else, which probably will be at a lower pay scale than anything he had had up to now.

Mr. Huddleston. So the major point in this bill, then, is the granting of authority to retire at age 50 with 20 years of service?

General CARTER. Yes, sir.

Mr. Huddleston. That is the major point?

General CARTER. That is the major point.

Mr. Gavin. After they have served how long?

General CARTER. Twenty years, sir.

The major point is 20 years—

Mr. Gavin. Where does this 5-year separation come in, where the specialist is a qualified person?

General CARTER. This is an involuntary retirement and applies only to grades GS-14 and above.

Mr. Rivers. Strictly involuntary.

General CARTER. Strictly involuntary. They must have served 5 years.

And I would hesitate to try to give you an example of a man like that, unless—well, we have none that I can think of in the Agency now, but it is a tool of management which is part of a complete program for early retirement as well as for handling forced attrition.

Mr. Rivers. Can you live without it?

Mr. Blanford. Mr. Chairman, may I make a suggestion on this, in this respect.

Really, compared to the overall bill, this is a relatively minor part.

Mr. Hardy. Yes.

Mr. Blanford. But what we could very easily do is to restrict numerically the number of persons that the Director could retire in any one year under this provision.

Now, you are really talking about not more than a half dozen a year at the most. I would think, who would be GS-14's and above. Why couldn't we put a limitation in, right in the bill, itself, which would then at least indicate there cannot be any abuse of this.

Mr. Hardy. That would be one—

Mr. Gavin. Pardon me—

Mr. Rivers. Wait, let's stick to the order.

Mr. Huddleston has the floor. Let's finish with Mr. Huddleston first.

Mr. Huddleston. I have finished, Mr. Chairman.

PC-666-63-No. 26-3

5516

Mr. RIVERS. Now, there are other people asking for the floor.

(Aside to Mr. Gavin.)

Mr. RIVERS. Go ahead, Mr. Gavin.

Mr. GAVIN. These people who reach the age of 50 and have served 5 years, and you have no further use for their particular ability, whatever it may be. Supposing they had only served 2 years of the 5, would you involuntarily retire them?

General CARTER. We would involuntarily separate them.

Mr. GAVIN. You have no other place for them and they are just there. What are you going to do with them?

General CARTER. We would separate them, sir, but they would not be retired. In other words, we would separate them with a separation allowance, which is very, very modest.

Mr. RIVERS. They just don't fit in your organization.

General CARTER. No retirement whatsoever.

Mr. BLANDFORD. They get 2 months' pay, Mr. Gavin, is what would happen.

Actually, you have two swords here. First of all, if these people were GS-13's and below—that is the first key—they would get a month's pay for each year of service.

If they had a total of 5 years of service or more—just like in all civil service retirement—they would get a deferred annuity which would be payable to them at age 60.

The only addition that they would get by working for CIA would be 1 month's separation pay for each year of service. So the man you are talking about with 2 years of total service would get nothing.

The GS-13 and below who had 5 years of service—the GS-13 and below with 5 years of service would get 5 months' basic pay, or 5 months' pay, and then he could draw his money out of the fund, or at the age 60 would have a deferred annuity. In other words, he could wait until he was 60.

Now, the man who was a GS-14 and had 2 years of service: There isn't any provision to even give him separation pay as I see it in this bill.

General CARTER. That is right.

Mr. BLANDFORD. This GS-14 would have to have—

Mr. RIVERS. The minimum.

Mr. BLANDFORD. A minimum of 5 years of service, and then he would get an annuity under this provision based upon 2 percent for each year of service, which would mean that he would get with 5 years, say, 10 percent of \$18,000, which would be \$1,800 a year for the rest of his life. But he wouldn't get any separation pay. There wouldn't be any deferred annuity. He would draw an immediate annuity at that point. That is for the GS-14 and above.

But all things being equal, are there going to be a relatively few of these GS-14's and above? And I suspect that what they are really talking about here is that they might want to take, say, the head of a company who is 45 years old and who has a particular skill that they want over a period of, say, 4, 5, or 6 or 7 years. Now, the bait to attract that man to leave his company is to say to him "We don't know how long we will use you, but if you stick with us for 5 years or more we will put you in as a GS-14, which gives you a good salary to start with. Now, if you stay with us for 5 years or more, and we suddenly decide that this program that you are the head of will be terminated, we can

5817

offer you a limited annuity which will amount to 2 percent of your basic pay for each year of service provided you had 5 years of service."

That is all this boils down to.

General CARTER. That is right, that is all it does; yes, sir.

Mr. HARDY. Of course—excuse me.

Mr. STRATTON. Mr. Chairman—

Mr. RIVERS. Wait, now, let me go to Mr. Wilson.

Mr. WILSON. Even if he retires at 5 years, it is a relatively small annuity.

General CARTER. That is right.

Mr. WILSON. It says "Annuity not reduced." But in effect it is a very minor annuity, because he has only 5 years' credit.

I might point out that Congressmen, who also face severe hazards, have a system where after 6 years of service they have an annuity. It is deferred until 65 or 62—

Mr. RIVERS. It is reduced.

Mr. WILSON. But we have the same provision for relatively short service.

But, of course, if we retire after only 6 years' service we get a relatively small annuity, too.

Let me ask you one question, General Carter: You mentioned in your first summary of the need for this system, that this was to make more adequate provision for certain of its employees who should be retired at an early age. Now, how do you differentiate between—as far as the retirement system is concerned—between those employees that are actually out in the field, and those who are over across the river, in their career? Are they under a different retirement system?

General CARTER. They are not now, sir. They are all under civil service.

Mr. WILSON. All right.

Now, I know you don't want to talk numbers, but what percentage of your total employees might be covered by this new system?

General CARTER. I would say between 25 and 30 percent.

Mr. WILSON. Twenty-five to thirty percent?

General CARTER. Of our employees; yes, sir.

Mr. WILSON. Now, is this a contributory system as far as the employees are concerned?

General CARTER. Yes, sir. Six and a half percent of their pay per month.

Mr. WILSON. In effect, what you are trying to put into effect there is a system like the military, where you select out the company grade officers because you cannot use them as they get older. You need a lot more people coming into the operation. And by offering a retirement system that lets him out after a given number of years of service you can keep that fresh supply of new young people coming in for the jobs that you have to do.

I don't even find any fault with the system that Mr. Hardy frowns upon here. I still feel, as you have explained here, that it is a reasonable thing to do, to give them an immediate annuity in that category of FSO-1 to 3.

Mr. STRATTON. Mr. Chairman—

Mr. WILSON. I am through.

5818

Mr. STRATTON. Mr. Chairman.

Mr. RIVERS. Mr. Stratton.

Mr. STRATTON. Mr. Chairman.

On that same point, the term "selection out," General, is usually one that has certain derogatory overtones. If I understand this proposal of yours—my understanding is the same as Mr. Wilson's—is it a fair assumption to say that what you have in mind here is trying to bring into the CIA an expert. This is somebody who is a highly trained individual. Obviously you have to pay him well to bring him in. Now, if he goes to work, let's say, in Moscow, the possibility is that in 5 years he will have been discovered and his usefulness to you will have been at an end.

But if in this process he, let's say, has succeeded in putting a microphone in Khrushchev's bedroom or his conference room, or something of that sort, his contribution to the country has been invaluable. And at the end of this period you have to select him out, not because he goofed, and not because he is a square peg in a round hole, but simply because of the nature of your operation this is bound to be a fairly short-lived deal, and yet he has made such a major contribution that you feel that he is entitled to a decent retirement. Isn't that the kind of thing you really have in mind when you talk about involuntary retirement?

General CARTER. Well, if he is in for only 5 years, sir, the annuity that he receives is very marginal, very marginal, no matter what rank he comes in as.

Mr. STRATTON. I mean, we had an objection made here to letting anybody retire on 5 years. It was my understanding that what you were trying to do was to protect somebody who for certain circumstances had to be selected out after 5 years. And I am saying that what you mean, if I understand what you are saying, is not that he proved to be a goof at the end of 5 years, but that because of the nature of your operation he might have been discovered and therefore was completely useless to you, and yet had done a terrific and an outstanding job in simply the short period of 5 years.

General CARTER. Well, I couldn't disagree at all with that concept: no, sir; it is the other side of the coin.

Mr. STRATTON. Isn't this really what you are trying to say to us?

General CARTER. Yes, sir.

Mr. STRATTON. And we are talking in terms of the Foreign Service, where—I am not an expert in it, but where I would assume that what we are talking about there is that somebody proves in 5 years that he just doesn't click and so they have to get rid of him.

And this is the kind of thing that Mr. Hardy is objecting to.

But when you get into the CIA, it would seem to me that it would be an entirely different kettle of fish.

Mr. GAVIN. Mr. Chairman.

Mr. RIVERS. Wait a second.

We are going to explore all of these things. We are not going into this thing with snap judgment.

Mr. GIBBS. It seems to me, General, that we have skirted all around the basic issue involved in this 5-year immediate annuity business. Isn't it an added inducement for extremely well qualified technical people with an especially needed critical skill to accept

5819

what is very apt to be a short tenure of employment? Isn't it an inducement more than anything else?

General CARTER. I think there is no question but what it would act as an additional inducement.

Mr. GIBSER. Well—

General CARTER. Yes, sir.

Mr. GIBSER. I wanted to comment on the suggestion made by Mr. Blandford; namely, that we restrict the number who could benefit from such an annuity in order to be sure that it is not abused. And if you will forgive me, I would like to construct a hypothetical case here.

Let's assume that we have a nuclear test ban agreement, and the Senate ratifies it. And let's assume that that creates a need in the CIA for some extremely well qualified scientific people who operate surreptitiously in order to determine whether or not the test ban agreement is being adhered to. You have a sudden demand for perhaps as many as 50 of these men. I think that is probably not inconceivable.

Wouldn't it be to your advantage to be able to offer them or let them know that at the end of the 5 years that they could retire on small pittance of annuity?

General CARTER. Yes, sir.

Mr. GIBSER. Wouldn't that be an added incentive?

General CARTER. Yes, sir.

Mr. GIBSER. And wouldn't a shortage of 5 or 10 or 15 people there severely handicap you in recruiting people of that type?

General CARTER. Well, under the terms of your hypothetical proposition: yes, sir; that would be a handicap.

Mr. GIBSER. Mr. Chairman, I just would like to suggest that this is an unusual Agency and a rather delicate one, and I don't think that this particular thing is serious enough that we ought to let it be a stumbling block.

Mr. HARDY. Well—

Mr. RIVERS. We are not going to let it be a stumbling block.

But I don't want the CIA to think that we are skeptical. We recognize the almost imponderable area in which you have to operate.

Mr. GAVIN. Mr. Chairman.

Mr. RIVERS. Let me finish.

And we are here to work out these things for the good of the Agency. And we want to help it. And we want to explore everything. That is why these questions are being asked. I can think—I have in mind another Francis Gary Powers, if indeed you have requirements for another one. There are a lot of areas in these things. Despite the high salaries you are compelled to pay.

What we want is results. We can't look at these things from a budgetary standpoint, on which maybe the fate of the Republic may hang, we don't know. I think there are a lot of things here that we are going to have to pay attention to. I don't think it is so vital now that we want to overlook the other things and spend so much time on this. We can work out something on this.

Now, Mr. Hardy, you want to say something?

5820

Mr. HARDY. Mr. Chairman, I didn't mean to prolong the discussion like this. This is apparently one minor provision in this thing.

Mr. RIVERS. That is right.

Mr. HARDY. But there are other aspects in there that disturb me more than what Mr. Wilson or Mr. Stratton had in mind.

I think we can work it out.

Mr. RIVERS. Certainly.

Mr. HARDY. I don't have a serious problem with this. We are not talking about people who serve only 5 years. We are not talking about people who necessarily come in at a high level. We are talking about people who go out on service from 5 to 19½ years. Actually, that is what we are talking about.

And you could have somebody who comes in with a GS-6 and gets up to a GS-14, and then is immediately involuntarily separated. He might have had 15 years of service, and he might be 40 years old. And he would be out on that basis with a full retirement, not reduced at all, continuing for his lifetime. Now, I think—there are a lot of aspects of this thing that we are going to have to explore.

And I wouldn't suggest we do it here, except I think maybe there is one other thing we ought to point out. This would be a separate retirement service from other Government retirement services. It would be separate from your military retirement. And the fact that the State Department has it doesn't commend it to me a bit.

But it would be separate from the military retirement. It would apparently be separate also from civil service retirement. I don't know whether you have a provision under which a person could retire from civil service or retire from the military—he can retire from the military with 20 years' service at age 40, some of them were doing it—and come in under this thing, and get in another 5 or 10 years, and go out at age 50 with an entirely added on retirement.

I don't believe CIA needs that kind of inducement to recruit its people. You have a lot of other inducements to go along with it.

We are talking about a retirement system here now. And this is something that we have to work out. I don't care to pursue it further at this stage, Mr. Chairman. It is just one little facet of this bill, but I think it is something we have to look at and look at very carefully.

Mr. HUDDLESTON. Mr. Chairman, one brief question.

Mr. RIVERS. Yes.

Mr. HUDDLESTON. General Carter, at the top of the chart is the statement "Optional retirement, immediate annuity, age 50 at 20 years." Now, at whose option is that retirement?

General CARTER. That is at the individual request of the employee, but only with the approval of the Director.

Mr. HUDDLESTON. Now, then, that is the provision that has as its purpose getting rid of these wornout types who have rendered good service, but who have lost a considerable amount of their motivation.

General CARTER. You are talking about the fellow who has to retire because of motivational exhaustion or family problems?

Mr. HUDDLESTON. Yes.

General CARTER. This sort of operation; yes, sir.

Mr. HUDDLESTON. And that is the provision that would apply to him.

5821

Now, that is purely voluntary on his part?

Mr. ECHOLS. Right.

General CARTER. Yes, sir.

Mr. HUDDLESTON. How will that accomplish the purpose for which it is intended? Except it would be an added inducement for him to retire. But if he refused to retire, then what recourse would you have?

General CARTER. Well, the Director may at his discretion, if he has reached the proper age and service under this new proposed system, retire him.

Mr. HUDDLESTON. He can retire him at age 50?

General CARTER. Yes, sir; with 20 years' service, whether or not he wants to retire.

Mr. HUDDLESTON. In other words, it is not only at the option of the employee, but it is at the option of the Agency, also?

General CARTER. Yes, sir; option of the Director.

Mr. HUDDLESTON. Well, then, the chart that was on before said that the mandatory age of retirement was 60—the chart that was up there first.

General CARTER. Yes, sir. That is mandatory, sir, and that is the age beyond which he cannot be employed.

Mr. HUDDLESTON. So it is mandatory at age 60, but optional on either side, either the employee or the Agency, at age 50 with 20 years of service.

General CARTER. Well, it is optional on the part of the Director in both cases. It is optional on the part of the employee, providing the Director opts also, or accepts the option.

Mr. HUDDLESTON. At age 50 with 20 years' service?

General CARTER. Yes, sir. It is really a discretionary authority on the part of the Director.

Mr. HUDDLESTON. And so the Director can compel retirement at age 50 with 20 years' service?

General CARTER. Yes, sir.

Mr. HUDDLESTON. If he is fit?

General CARTER. Yes, sir.

Mr. HUDDLESTON. Thank you.

General CARTER. We have right now under the civil service system a Board of Officers, senior officers, which reviews all of our personnel who are eligible for retirement within the next 2 or 3 years. And they meet periodically and go over these cases. And then they advise that officer, again with the approval of the Director, just what his chances are of being held on beyond the normal age of retirement.

So that he has information within 2 years before he might normally be eligible for retirement whether or not his capacity is such that he will be kept on.

Mr. HUDDLESTON. And if this bill is passed, then that would be age 50 with 20 years' service?

General CARTER. Yes, sir; it could be.

Mr. RIVERS. Mr. Huddleston, are you finished?

General CARTER. Providing he met all the other requirements of this limited group of employees for whom this legislation is designed.

Mr. HUDDLESTON. I am finished.

Mr. RIVERS. Now, Mr. Gavin, did you have a question?

5822

Mr. GAVIN. This extraordinary person that you propose under this 3-year system: Supposing his work is completed in 3 years, and he leaves the profession, that he has well established. Do you think he is going to come in for the limited time that you might require—and say it would be 3 years—for the particular purpose, that you may require him, and be satisfied with the annuity that you are going to pay him after he leaves a very responsible position that may have taken years to secure?

General CARTER. Well, I think the choice, sir, would be up to the individual circumstances for each person.

Mr. GAVIN. Whether or not he would accept—

General CARTER. It is some incentive, sir. It is some incentive, and not a great deal.

Mr. GAVIN. Well, if you required a professional man for a certain particular assignment, and that assignment had been completed, and you had no further use for him, do you think he would be satisfied with the annuity that he would receive after 3 years, to leave his present position to come in to render a special service for you, or your department?

General CARTER. We would not normally take that type of person on as a staff employee, sir. We would take him on as a contract employee or a contract agent, and hire him for an annual or a 3-year contract at reasonable scale, as we hired the U-2 pilots who were on contract. And then when their services are over, we are free of them. We have no retirement or annuity responsibilities at all.

Mr. RIVERS. This would be strictly a special contract?

General CARTER. A special contract; yes, sir.

Mr. RIVERS. Now, Mr. Blandford, you have a letter there—before we recess.

Mr. BLANDFORD. Yes, sir.

Mr. RIVERS. We can't meet this afternoon because we have a bill on the floor.

Mr. BLANDFORD. All right, sir.

I think I should read so that General Carter and others can take the appropriate action.

Mr. RIVERS. Now, I want you all to hear this.

Mr. BLANDFORD. The letter is addressed to the chairman, Mr. Vinson, from the Committee on Ways and Means:

HON. CAEL VINSON,
Chairman, Committee on Armed Services,
U.S. House of Representatives

MR. DEAR MR. CHAIRMAN: It has come to the attention of the Committee on Ways and Means that H.R. 7216, which you introduced at the request of the administration, and which would amend the Central Intelligence Agency Act of 1949, contains provisions relating to the Internal Revenue Code. It has been the practice of the Committee on Ways and Means in such cases to request the committee concerned that it not act on provisions within the jurisdiction of our committee until we have had an opportunity to review the provisions and submit to the committee concerned whatever action the Committee on Ways and Means feels should be taken on the particular provision.

Some of the better known examples, of which you are not aware, are: The Federal highway program (Committee on Public Works), wherein the Ways and Means Committee handled the highway trust fund provisions; the Peace Corps legislation (Committee on Foreign Affairs), wherein our committee handled the tax and social security provision; legislation relating to the

5S23

Silver Purchase Act (Committee on Banking and Currency), wherein the Committee on Ways and Means handled the tax features; and more recently, the land and water conservation legislation (Committee on Interior and Insular Affairs), wherein we handled the tax provisions.

In line with this policy of the Committee on Ways and Means, this letter is to request that you permit our committee to review the tax provisions of H.R. 7216 and submit to you whatever our suggestions may be as to these provisions. It has been our practice in such cases to recommend that a separate title be written in a bill concerning those matters within our jurisdiction on which we make recommendations. We write the language which we suggest on such separate titles, as well as the report language on them. In the past, where the committees to whom the overall legislation has been referred see fit to accept our suggestions, they have reported their legislation using our suggested statutory language and report language. I am enclosing for your information a copy of the report on H.R. 6713 of the 87th Congress, the Federal Aid Highway Act of 1961, as an example of this procedure (see p. 13).

We always make every effort to consider the part of the legislation of interest to us expeditiously, so as not to delay in any way the schedule of the committee to whom the overall legislation has been referred.

Sincerely yours,

WILBUR D. MILLS.

Chairman.

JOHN W. BYRNES.

Ranking Minority Member.

Mr. Chairman, I discussed with Mr. Irwin of the Ways and Means Committee this morning this bill, and indicated that our schedule at this time was to complete the subcommittee hearings this week, by Thursday, and report the bill to the full committee by Tuesday.

I would like to suggest, therefore, that the CIA representatives take this bill, H.R. 7216, discuss it immediately with the Ways and Means Committee, and try to work out a separate title and a separate report which the Ways and Means Committee can approve, which then could be—we could strike out the Internal Revenue language in 7216, add a separate title with whatever they approve with regard to the Internal Revenue Code, and report the bill with their suggested language, and their suggested report language, which would comply with their request. Because we are in their jurisdiction in two areas, to the best of my knowledge, one on disability retirement and the other on gifts.

General CARTER. Yes, sir; we will undertake to do that immediately.

Mr. RIVERS. Why don't we follow that course and see what comes out of it.

Mr. BLANDFORD. Yes, sir.

General CARTER. Yes, sir.

Mr. RIVERS. You can get them to do that today.

General CARTER. I am sure, if we can get right at it.

Mr. BLANDFORD. I am sure it can be brought to their attention today.

And they ought to have something to bring back to us certainly by next week.

Mr. RIVERS. Let us do that.

Have you finished your statement?

General CARTER. Except for disability retirement, sir, which we can—

Mr. RIVERS. We had better get to the floor. I don't think that will—

General CARTER. Yes, sir.

5824

Mr. RIVERS. Why don't we recess until 10 in the morning, General? And if you could be back then, I think we can get moving.

Mr. BLANDFORD. If everyone will leave—

Mr. RIVERS. Now, everything be left.

Mr. BATES. Is this [displaying document] the only thing that is classified?

Mr. HOUSTON. Yes, sir.

General CARTER. Yes, sir.

Mr. BATES. The rest of it is all right?

Mr. HOUSTON. Yes, sir.

Mr. RIVERS. Thank you very much, gentlemen.

Mr. CARTER. Thank you, Mr. Chairman.

(Whereupon, at 11:52 a.m., the subcommittee adjourned until Wednesday, July 24, 1963, at 10 a.m.)

HOUSE OF REPRESENTATIVES,
COMMITTEE ON ARMED SERVICES.

SUBCOMMITTEE No. 1,

Washington, D.C., Wednesday, July 24, 1963.

The subcommittee met at 10:50 a.m., Hon. L. Mendel Rivers, chairman of the subcommittee, presiding.

Mr. RIVERS. Let the committee come to order.

General CARTER, if you will start your statement.

Have we got any more copies of this?

General CARTER. Yes, sir.

Mr. HOUSTON. Yes, sir.

Mr. RIVERS. I would like for the other members to have them.

Mr. HOUSTON. I will give them out.

Mr. RIVERS. Go ahead, General Carter.

General CARTER. Mr. Chairman, the Agency is represented by the same people who were here yesterday, and also Mr. Woodyear from the State Department, who is the expert on the administrative and personnel actions in connection with their legislation.

Yesterday, in compliance with the chairman's instructions, the staffs met with the House Ways and Means Committee, and tomorrow we will have a hearing with that committee which will be handled by Mr. Houston.

At the moment we do not anticipate any difficulty with the Ways and Means Committee.

Mr. RIVERS. Good.

General CARTER. When this subcommittee recessed yesterday I had been discussing the involuntary retirement provisions of the proposed CIA retirement system—in particular the feature of this proposal which would permit the payment of an immediate annuity to an employee in grade GS-14 or above who is involuntarily retired or selected out, after 5 or more years of service.

A number of points came up in this discussion, and with your permission I would like to start today by describing some of the main considerations involved.

Both under the Civil Service Retirement Act and the Foreign Service Retirement Act an employee who has at least 5 years of service has earned a deferred annuity if he leaves the service before reaching optional retirement age.

5825

Under our proposed system the same entitlement to an annuity is earned.

The novel feature of the provision, therefore, is not the individual's entitlement to an annuity. The question is whether this annuity should commence immediately upon the involuntary retirement of an officer at GS-14 or higher or whether it should be deferred.

We believe that an immediate annuity is warranted for the employee in GS-14 or higher who is retired involuntarily. Officers at this grade level, almost without exception, will be at least middle aged and at a considerable disadvantage in beginning new careers. Depending on the number of years he has served, such an officer would receive an annuity of 2 percent per year of service which would provide at least supplemental income permitting him to take other, perhaps less remunerative, employment.

I think it would be timely to describe the career management of the particular group involved in this early retirement system we are proposing, and to show how unlikely it would be that there would be involuntary retirements at the GS-14 level with less than 10 or 15 years of service, except in the most unusual and limited circumstances.

Mr. RIVERS. Now, if a man just had the 5 years, which would make him eligible, and he were a GS-14, how would the 2 percent per year come in?

General CARTER. If he were eligible for retirement under the criteria established by the Director for this limited number of people in the Agency?

Mr. RIVERS. Say he just got qualified, he just had the 5 years.

General CARTER. Yes, the 5 years. He would be eligible for an annuity amounting to 10 percent of his average salary over the preceding 5 years.

Mr. RIVERS. That is right.

General CARTER. That is his 5.

Mr. RIVERS. That is the way it goes.

General CARTER. Ten percent.

So if he was an \$18,000-a-year man—

Mr. RIVERS. Ten percent, he would get \$1,800.

General CARTER. He would get \$1,800 a year; yes, sir.

Mr. RIVERS. Five years, he would get twice that.

General CARTER. In 10 years he would get twice that.

Mr. RIVERS. I mean in 10 years he would get twice that.

General CARTER. Yes, sir.

Mr. RIVERS. And if we keep in mind it is always a GS-14 or an above with a minimum of 5 years, we understand this.

General CARTER. Yes, sir; that is correct.

This group which is subject to our retirement program—

Mr. RIVERS. Let me interrupt. Under your recommendation, there would be nothing deferred at all until they hit the 62, or whatever it is?

General CARTER. For GS-14's and above: yes, sir.

Mr. RIVERS. They would get it immediately.

General CARTER. They would start getting it immediately.

Mr. RIVERS. Because of the advanced age and so forth.

General CARTER. They are at least past middle age.

Mr. RIVERS. I understand.

General CARTER. Yes, sir.

5826

Mr. RIVERS. I understand perfectly.

General CARTER. The group subject to the retirement provisions of our program has a remarkable cohesiveness and tenure.

We have a recruiting program of young highly qualified people of average age in the middle 20's—of those we presently have in training the average age is 27. One happens to be 21. One is 35. But the average age of our junior officer trainees is in the 23-year group.

Mr. RIVERS. Now, when they come aboard—that is, when they come into the organization, after this training—what are they? GS what?

General CARTER. They will come in as GS-7's and 8's.

Mr. RIVERS. And what do you call these people when they come in?

General CARTER. We call these junior officer trainees.

Mr. RIVERS. Junior officer trainees.

General CARTER. And they are on probation with us for 3 years, after a very extensive training program.

The training consists of both special courses in the difficult and often unique arts of intelligence and their related fields, and on-the-job training in various divisions within the Agency.

As a rule, they are GS-7's and GS-8's.

Mr. RIVERS. As a rule.

General CARTER. As a rule.

They progress into regular assignments in their career service, depending almost entirely on promotion from within. Lateral recruitment—that is, going out and bringing them in—particularly at the higher grades, is most unlikely as the techniques and experience necessary to fulfill the larger responsibilities of our career staff officers are not generally known or practiced outside of the trained and experienced Agency staff people.

Mr. RIVERS. Say somebody were to come to a Member of Congress and say, "I would like to be considered for a job in the CIA." I have never experienced it, myself.

Mr. HARDY. Well, I have. But it doesn't help.

Mr. RIVERS. I know.

Mr. HARDY. If he comes to Congress, it doesn't help a bit.

Mr. RIVERS. Well, how do they do? Do they just turn them right over to personnel?

General CARTER. I didn't catch the last phrase, Mr. Chairman.

Mr. RIVERS. They write to the Director or the Chief of Personnel?

General CARTER. Yes, sir, they can write to the Director and it will end up with the Director of Personnel.

Invariably we interview them and find out if they have capabilities that we need, and in many cases we process their complete applications.

I might point out that a letter to the Director from a Congressman is no guarantee of employment.

Mr. HARDY. It sure isn't.

Mr. RIVERS. I know that.

General CARTER. As I say, a letter to the Director is no guarantee of employment.

Mr. RIVERS. Do you have some kind of an understanding with the FBI, for instance, as an area to get people, with their help?

General CARTER. We employ a number of people who were previously with the FBI.

Mr. RIVERS. I would imagine so.

5827

General CARTER. We have the closest relationship with the FBI particularly in ascertaining the security clearances of personnel before we take them on board.

Mr. RIVERS. Do you have any kind of agreements with any of the universities?

General CARTER. Yes, sir, we have a comprehensive recruiting system throughout the universities. And in fact, the junior officer trainees that we now have on board have come from 66 different institutes of higher learning. One-third of them have master's degrees or better. They are a very high-class group of people.

We have to do our recruiting somewhat quietly in that we don't advertise the type of work that they would be subjected to. But as soon as we have a college graduate or a young fellow who seems oriented in our direction, we get right with him and give him a better idea of the career that we can offer him in the agency.

Highly specialized skills needed on a temporary basis, as distinct from a permanent career basis, can be and we do acquire by contract or by reserve appointments. Neither one of these are eligible for the retirement provisions we are now proposing.

This indicates, I feel, that employees will not normally reach the grade of GS-14 unless they have had at least 12 or 15 years of service and in the career service.

The 5-year period which we discussed yesterday, therefore, is a repetition of the Government-wide principle that eligibility for retirement benefits commences only after the completion of at least 5 years of service, and in practice retirement at that time would not take place except under the most exceptional circumstances.

I would like to emphasize our basic concentration on the junior officer training program and the establishment of a career service in which people will remain throughout their Government service, progressing through the ranks.

Mr. HARDY. Well, what percentage of CIA employees would be covered by the liberalized retirement provisions that you have here?

General CARTER. Between 25 and 30 percent of our employees.

Mr. HARDY. All right.

General CARTER. Yes, sir. If at the time they are eligible for retirement they meet the criteria established by the Director, they are at all times eligible for the Civil Service Retirement Act.

Mr. HARDY. Yes; I understand that.

But you are getting right down to the point. And I think maybe Mr. Blandford should develop this more fully.

But you are getting right down to one of the key points in this whole thing.

What kind of guidelines or statutory guidelines are going to be provided to keep everybody in CIA from being eligible for this kind of coverage?

Mr. RIVERS. Let me take a whack at it—

Mr. BLANDFORD. That is the key to it.

Mr. RIVERS. Wait now. That is important.

Once you get into this career field you remain in it until you are out of the service, because you are always subject to recall to Washington for retraining and any staff job you have here would be deemed temporary.

Mr. BLANDFORD. Well, Mr. Chairman—

5828

Mr. RIVERS. Wait now.

Mr. BLANDFORD. That is not correct in this respect.

Mr. RIVERS. Well, it is the identical way with the State Department. You have Foreign Service officers.

Mr. BLANDFORD. Perhaps I can clarify some of this.

Mr. RIVERS. Isn't this right, General?

Mr. BLANDFORD. The problem that Mr. Hardy raises, and I think the problem that we have got to know the answer to, is this:

That is, this bill, stated by itself, says the Director will decide who will be in this retirement system and who won't.

What do you do with a man who after 6 or 7 or 8 years in this business comes back to Washington. His motivation is gone, or at least he has lost his desire to engage in such activities. So they give him an assignment in Washington.

And does the Director at that point say "Now we are taking you out of this retirement fund and you are going back under the civil service retirement fund?"

Now, the question is, does he get 2 percent for each year in those activities?

How do you handle something like this?

How do you put the brakes on the number of people that can come into this program? How do you handle the problem between the man who is in one operation, or one system, and then goes back into another one?

These are the things I think Mr. Hardy is trying to develop.

Mr. RIVERS. That was mine, too.

I figured once he was in it, he was in it.

General CARTER. No, sir.

Mr. BLANDFORD. Not necessarily.

General CARTER. No, sir.

The only time he is sure that he is in it is when adjudication has been made by our own Retirement Board and by the Director that he is in fact eligible for early retirement.

Mr. RIVERS. Well, if he has got 10 years' qualifying service and comes under this, he can come—of course he is already a GS-14. He can get out with 2 percent a year, as Mr. Blandford says.

Mr. BLANDFORD. He could, but he might want to continue as an employee of the CIA.

Mr. RIVERS. Take the 10 years over here under the special one, plus the 10 years over here under the civil service?

General CARTER. No, sir.

The deduction from his pay throughout his service is the same, 6½ percent.

Mr. RIVERS. Six and a half percent.

General CARTER. Yes.

It is not until his retirement criteria is actually determined that he knows whether or not he is eligible for these provisions.

Mr. RIVERS. Well, at the end of 20 years he will know.

General CARTER. If it is early retirement, he will have to request early retirement and be passed on by our Retirement Board and by the Director as having met these peculiar requirements.

Otherwise, he would retire under whatever civil service provisions are available to him.

Mr. RIVERS. Well, this is going to present a problem.

5829

Mr. BLANDFORD. Well, it is a problem to this extent, also, Mr. Chairman:

Really, what you are asking this committee to do—it seems to me that what we are being asked to do here is to give to the Director of the CIA a great deal of authority to determine how he will operate two different retirement systems.

Mr. ECHOLS. Yes.

Mr. BLANDFORD. The only thing you can do is put faith in the Director and then future Directors, that they will not abuse the system.

The only way we can check on the system would be to have the CIA come back here at some future date and say, "How many people are now considered to be covered under this type of retirement?"

This is the only control the Congress will have over it. The way this bill is set up, you will get a separate appropriation for retirement from some source, in order to pay this.

General CARTER. That is right.

Mr. BLANDFORD. So therefore you are really asking for a great deal of authority comparable to the authority we gave you back in 1948, in which we said you could have unvouchered expenditures.

Now, actually, I suppose, in some respects you could do a great deal of this under the very general authority to spend funds without accounting for them.

General CARTER. I don't think it is quite this way, sir.

The authority we are asking for for 25 percent of our people is the authority which is already in existence for the entire Foreign Service.

So we are not asking for anything at all that has not already been clearly established and provided for for the large bulk of one agency which serves overseas.

Mr. BLANDFORD. That is right, General.

But the point is this. The Foreign Service officer is easily identifiable. He enters into the Foreign Service, and this is on a career basis for him. He is promoted or passed over. It is a promotion system.

He has a guaranteed retirement system which guarantees him that if he is still active in the Foreign Service at the end of 20 years he can apply for retirement.

I don't believe it is a vested right. I think it is up to the Secretary to decide whether he will retire or not retire upon the completion of 20 years.

Now, what you have done is to take the retirement system that best meets your needs—rather than create a brandnew retirement system, you have taken the Foreign Service Retirement Act and said, "Let us apply the best provisions of the Foreign Service Retirement Act to our own peculiar problem."

Now, nowhere in the bill is there a limit on the number of people that this can apply to.

You will have a problem that the Foreign Service officer does not have, and that is: you will have people going from one type of operation into a staff job in Washington.

This is bound to happen. You are bound to have people at the end of 10 or 12 years who will come back to Washington, and you will make them a branch chief, and they no longer, all things being equal—the Director in good conscience can't say, "Now, you are no longer

5830

entitled to participate in this special retirement fund. You are going to be under the regular civil service retirement system."

Now, of course, when that happens, the individual may or may not have a choice. Because he is getting 2 percent for each year that he was covered under the special retirement system. And when he switches back over into the civil service retirement fund he drops down to 1 1/2 percent, and he must then meet the civil service retirement qualifications.

And this is going to be a problem for CIA.

Whether or not the individual at that point, if he is a GS-14, should be allowed to take an annuity is one of the questions that is solved in this bill.

Mr. STRATTON. Mr. Chairman, could I ask a question?

Mr. RIVERS. You still have the floor, Mr. Hardy.

Mr. HARDY. Yes, but the whole thing is one that was left—

Mr. RIVERS. Let me say this.

Mr. HARDY. Go ahead.

Mr. RIVERS. Let me say this.

Why couldn't we take it at this point?

You are speaking for the employee's rights too, Mr. Blandford.

Mr. BLANDFORD. Yes.

Mr. RIVERS. He has the right to have his rights adjudicated.

Why shouldn't we put something in the act that a man in a changing status shall have the right to have his status determined at that point.

Mr. HARDY. Of course you are giving the Director the right to do almost anything he wants to.

Mr. RIVERS. I know. But the Director may not want to do it.

We have to give the employee some right. You see what I am talking about?

Mr. BLANDFORD. Yes, sir.

The problem—I can certainly appreciate why the language in the bill has to be fairly broad.

There will be problems that will come up here that if you attempted to control it by law it would be almost insurmountable, if you tried to solve every problem.

Mr. RIVERS. Right. You have to have a lot of discretion.

Mr. STRATTON. Mr. Chairman—

Mr. HARDY. If this thing becomes law as it is, it won't be very long before everybody in CIA will be covered under this program.

Mr. BLANDFORD. That is the problem.

The only way you can control it is by faith in the Director, really, and asking the Director to report back to the Congress the number of people who are in the program.

Mr. HARDY. You don't write good legislation that way.

Mr. BLANDFORD. No. But I don't know how else you are going to do that here.

Mr. HARDY. There is one other aspect.

I realize the point the General made a minute ago, that this already applies to everybody in the Foreign Service.

Yes, I realize that is so. But in my book it is wrong. And I don't think the Foreign Service ought to have as much latitude as they have got.

Mr. RIVERS. Well, we can't do anything about the Foreign Service.

5831

This is the first time, I want you all to keep in mind, that we are trying to legislate for an organization that has not been a part of our American way of life since its inception. This is a new thing we have here.

Mr. HARDY. I think that is right, but—

Mr. RIVERS. This kind of work has just not been our business. And those whom we have in it we have to take care of.

Mr. HARDY. Yes, but we don't want to fall flat in trying to do it.

Mr. RIVERS. I was impressed with what Mr. Helms said.

Where did you come from?

Mr. HELMS. Where do I come from, sir?

Mr. RIVERS. Yes.

Mr. HELMS. You mean what did I do before I came in this work?

Mr. RIVERS. Yes.

Mr. HELMS. I was a newspaperman.

Mr. RIVERS. You see, you never got in the ground floor of the Foreign Service. They haven't accepted you yet. So you got your problems, too. And we got to recognize that you got problems.

And you have to recognize that we are not—this committee is not looking with suspicion on you gentlemen.

Mr. BATES. He is making good progress.

Mr. RIVERS. You are getting better all the time. The committee is warming up to you more all the time, as you can observe.

General CARTER. Mr. Chairman—

Mr. GAVIN. Mr. Chairman.

What happens to a Regular Army officer who is assigned to the Foreign Service? Is he entitled to any benefits or is he just with the Regular Army assigned to the State Department?

General CARTER. He is with the Regular Army and retains all of his military benefits.

If he chooses to leave the Regular Army and transfers to the Foreign Service and is able to accomplish this, then he comes under Foreign Service regulations.

Mr. GAVIN. Do you have many that come from the Regular Army that decide to transfer to the Foreign Service?

General CARTER. I know offhand of only one, sir—Ambassador Byrroade has done this. He was a brigadier general in the Army. He resigned from the U.S. Army, and forfeited all of his—about 16 years of equity—and then took the Foreign Service examinations, passed them, and he is now the rank of Ambassador.

Mr. GAVIN. While he is still in the Regular Army, is he entitled to any special benefits that might accrue under this system you propose?

General CARTER. None whatsoever, sir. He is no longer in the military service at all.

And I served in the State Department for 3 years, but I was on the military payrolls, paid by the military, working for the Secretary of State.

Mr. STRATTON. Mr. Chairman.

Mr. RIVERS. Mr. Hardy, have you finished?

Mr. HARDY. Mr. Chairman, I am finished with this. If Mr. Stratton wants to pursue it?

I have some other points later on. But I will yield now.

98-066-63-No. 26-4

5832

General CARTER. Mr. Chairman—

Mr. STRATTON. Mr. Chairman. I would like to ask one question to clarify this.

This bill is requested for a limited number of your people. You have indicated to us generally the number of persons that it would apply to.

Now, do I understand that there is—

Mr. GAVIN. I wonder if you would talk a little louder. We can't hear you over there.

Mr. STRATTON. I didn't realize the other members of the committee were interested. Mr. Gavin. I would be very happy to.

Mr. BATES. Oh.

Mr. STRATTON. Do I understand that there is no actual distinction in any formal sense between an individual who is in this type of service and an individual who isn't?

In other words, you are not under any different register. You just happen to be performing a particular function at a particular time; is that right?

General CARTER. Well, sir, we have in the Agency a career service system, and this would be one of those career services.

Mr. STRATTON. Well, now, if a man is hired for CIA for such service, is he assigned to that particular service?

General CARTER. Yes, sir. This does not preclude his transfer at a subsequent date to some other position if he seems better suited to that.

Mr. STRATTON. Now, this is what I want to get clear.

When he comes back to Washington for a staff job, does he then—is he then transferred out of that service?

General CARTER. No, sir. He remains assigned to that service, and his duty assignment is established based on need.

Mr. STRATTON. Then—

General CARTER. It is the same thing as in the military services, sir, where you have Signal Corps, Transportation Corps, Armor, and so on.

Mr. STRATTON. Exactly.

He comes back and, in a sense, is rotated for a little shore leave; is that right?

General CARTER. Yes, sir.

Mr. STRATTON. All right.

Then, this would not mean that you would have people transferring in and out every time they came back here, and that as Mr. Blandford suggested a moment ago, everybody in CIA who might touch foot—everybody in CIA might touch foot briefly in that service, and therefore everybody will become eligible for this bill.

If you operate the way you suggest, that wouldn't be true; would it, General?

General CARTER. Well, this is certainly not the way it would be operated.

I think Mr. Blandford's point was that the way the legislation is worded, if you had a director in whom you did not have faith, he could do this.

Mr. RIVERS. I think that is absolutely right.

General CARTER. I think that is Mr. Blandford's point.

Mr. BLANDFORD. That is all I am saying, General.

5833

Mr. RIVERS. That is right.

Mr. STRATTON. You have a particular category. The number of people that are in this category is known. It is a reasonably fixed number. And unless some shenanigans, that isn't going to be changed without some considerable knowledge of that fact: is it?

General CARTER. Well, some of the people, sir, even in that career service may never become involved in the type of activity for which this special retirement act is requested. Some of them may never.

On the other hand, we also have officers—

Mr. STRATTON. I don't understand that. Some people in this particular service may never become eligible for the type of coverage.

General CARTER. Yes, sir.

Mr. HELMS. May I explain this, Mr. Stratton?

[Deleted.]

Some analysts will probably never go overseas and will never live a life any different from any other civil service employee, even though they work in that career service and support that service they would not be entitled to the benefits under this retirement system.

Mr. STRATTON. But that would be an administrative decision.

Mr. HELMS. Correct.

General CARTER. That is correct.

Mr. STRATTON. Now let me ask one other question, if I may, while I have the floor.

General, you have indicated in your prepared statement here that actually the people who would be eligible for this retirement after 5 years or more of service would be in the nature of the case a very small number.

Now, the question, or the point that I was trying to make yesterday—and I am not sure that I made it clearly—I would like to ask you about again.

We are constantly referring to the term "selected out" or "involuntary retirement," and I think the parallel with the military service is the one that immediately comes to mind when you use the term "selected out." It implies that somehow an individual, an officer, has not quite measured up to the norm. He hasn't quite measured up to the specific requirement, and so he is "humped out," he is selected out, or what have you.

In your Agency is it not the case that people who might be selected out or involuntarily retired in this way would not necessarily at all be those who had failed to measure up, but who because of the peculiar nature of your work had found their usefulness coming to an end might be selected out but not necessarily because of any failure to measure up. Is that correct?

General CARTER. That is correct.

[Deleted.]

General CARTER. I think your analysis is correct, that this is a selection out for reasons other than poor performance of duty in most cases.

Mr. HOUSTON. That would be true of many of those 125.

General CARTER. Now as I said yesterday, I personally, and with great pain, relieved 125 employees last year within the Agency. [Deleted.] I reviewed every one of those cases myself, acted on them myself, and I tell you it was painful, because they were just surplus to our needs. They had skills, in the most part, that we no longer required.

5834

But about the only thing I could do for most of them was to give them about what amounted to a year's pay, 1 month per year of service, prior to their departure, and to assist them through our Director of Personnel in every possible way in getting them reemployed either in the Government or in civil life.

Mr. RIVERS. If you had had this act, that is, were this on the books at this time, you could have taken advantage of the selection out provisions of this?

General CARTER. I could have, sir, for those grades of GS-14 and above. And the bulk of them had service anywhere from 9 to 16 years.

I could have given them an immediate annuity. For those below GS-14, I could have given separation pay and an annuity at the time they retired at age 60—if they met the requirements as the Director might determine.

Mr. GAVIN. Over what period of time?

General CARTER. This will be, sir, at the discretion of the Director, based on recommendations established by the Retirement Board of the Agency.

This is no different from the determination that has to be made by the Federal Bureau of Investigation and other detection and law enforcement agencies who have the same privileges, of 50 and 20.

They can't determine whether a man is eligible until the time has come.

Mr. STRATTON. General—

Mr. RIVERS. Right there, Mr. Stratton—

Mr. STRATTON. Excuse me.

Mr. RIVERS. I just wanted to ask him: Did you get any part of this from the FBI Act?

General CARTER. No, sir. There is not what amounts to an FBI Act, as such.

Mr. RIVERS. They have discretion.

General CARTER. On retirement.

Mr. RIVERS. They have discretion of hiring and discretion in retirement. And they have 20 years.

General CARTER. With 50 years and 20 years service, yes, sir.

Mr. RIVERS. Go ahead, Mr. Stratton.

Mr. STRATTON. Now, General, coming back—

General CARTER. That is an amendment to the Civil Service Retirement Act.

Mr. RIVERS. The Civil Service Act, that is right.

Mr. STRATTON. Coming back to these 125 that you said you relieved.

Mr. STRATTON. This sounds pretty much like the same kind of thing that we get in the lump legislation in the Navy and the white charger legislation in the Air Force.

In other words, you just got a surfeit of people, of skills, that have somewhat become outmoded?

General CARTER. This is what generated this, sir.

Fortunately, in some cases we found a need for those skills in other departments of the Government, and in some cases we were able to have these people reassigned even at a grade higher than what we had been giving them.

There was nothing wrong with them as people.

Mr. GAVIN. Approximately, out of the 125, how many did you get placed in other branches of Government?

5835

General CARTER: 125 we released from the Agency, sir?

Mr. GAVIN: Yes. I say, how many did you find jobs for?

General CARTER: In the neighborhood of 45 to 49.

Mr. ECHOLS: Right.

General CARTER: I can furnish the complete records if the committee would so wish.

Mr. GAVIN: Did the State Department take any of them?

General CARTER: Yes, sir.

Mr. GAVIN: Approximately how many?

General CARTER: As I recall, sir—and I would have to give you the figure—there were two or three who transferred to the State Department.

A number to the Department of Defense, several to Agriculture and Commerce, and many within our own Agency transferred from an activity in which they had been determined surplus in their service, but we were able to, by retraining, reorient them so that they were capable of performing adequately in other services.

Mr. HARDY: I would like to pursue this one point, if I might, because I had this one down here as a note, too.

We are talking now about some specific involuntary separations. And I wanted to inquire as to whether you had statistics which you could furnish now, if you have them, and if not, later on, as to the number of involuntary separations over a period of years, the length of service, and the age groups in which they fall, and also the grade at the time of separation.

Now, we have been talking about this 5-year thing. I don't know whether—do you have such figures as that? Have you compiled them?

General CARTER: I don't think I have them here, sir, but I know in most every case.

There are a total of 191 personnel that have been involuntarily considered for separation from the Agency in the past 2 years.

This program has only been in existence 2 years.

Mr. HARDY: Well, then, you ought not have much trouble in developing the figures on it.

General CARTER: No, sir. We have all the figures. I do not have them with me.

Mr. HARDY: I think they would be very important in our discussion of this retirement, regardless of age, for those above grade 14.

How many of those have been actually separated, of people above grade 14?

General CARTER: Do you have those figures, by any chance?

Mr. ECHOLS: Of last year's exercise, to which the general referred, 25 of the group were in grade 14 or 15.

Mr. HARDY: Well, grade 14 or above.

Mr. ECHOLS: Fourteen and above.

Mr. HARDY: Twenty-eight.

Now, what was the length of service of those people, now? How did they vary?

Mr. ECHOLS: One had 30 years' service; 16 had 20 to 24 years' service; 7 had 15 to 19 years' service; 3 had 10 to 14 years' service, and 1 had 9 years' service.

Mr. HARDY: All right.

Now, of your seven, what age groups did they fall in?

58.

You—seven, three, and your one—let's talk of the ones under 20 years.

Mr. ECHOLS. I am sorry, I do not have the ages of these individuals.

Mr. HARDY. Well, I just wonder if we aren't worrying about something that actually isn't too important, and if we shouldn't have an age limitation on there as well as a right to deferred annuity, as would happen below grade 14. Below grade 14 they can retire on a deferred annuity.

General CARTER. Yes, sir.

Mr. HARDY. And that is anybody.

General CARTER. Yes, sir.

Mr. HARDY. So I think we ought to understand what we are talking about with respect to these above grade 14.

Because most of the ones that you have separated above grade 14: It wouldn't have made a bit of difference, because their length of service was above 20 years.

General CARTER. That is correct, sir.

This is one of the reasons we would like to get this retirement, although the bulk of these people would not have been eligible even under this retirement bill for the 50-20.

Mr. HARDY. You are going to have to do a lot of fancy finagling to convince me that you ought to have this business of immediate retirement after 5 years of service regardless of age.

I don't care if the State Department has that. It is wrong in my book. And I don't believe you can justify it.

I don't believe you have any real virtue in the thing, to start with. And certainly we can find an age period in there based—which coupled with length of service should meet the need, without getting into this language, which will permit so many screwball determinations.

And I am not suggesting that the present incumbents who would have the discretionary authority are going to abuse it.

But when we set up legislation that permits it, you open the door right wide, and that is the thing that I am objecting to.

Mr. BLANDFORD. Mr. Hardy, may I comment on that?

There is a problem here, also, General, in connection with this to which Mr. Hardy alludes, first, with regard to the people who have already been released.

May I ask whether this bill would in any way benefit anyone already been released from CIA?

General CARTER. It is not intended to have this bill retroactive, no, sir.

Mr. BLANDFORD. All right. That is point 1.

Now, point 2. A man is put into this retirement system. As I reread this bill, section 251 and 252 and 253, if it is left in here, he takes with him for retirement purposes all of his prior civil service employment and all of his military service.

General CARTER. Yes.

Mr. BLANDFORD. Now, under this, then, it would be possible for a man to be covered in this type of a retirement system who might spend only 1 or 2 years in qualifying service, and then he would have 20 years of service which would be multiplied by 2 percent, so that he would retire at age 50, we will say, without any loss in his annuity.

5837

and he would have received credit for all of his civil service employment, all of his military service, and yet only have contributed 2 years in qualifying service.

Isn't that possible under this bill?

General CARTER. It is possible mechanically under the bill, sir, but in my opinion it would be a most indiscreet Director and a totally ineffective retirement board who would accept him as part of this program.

Mr. BLANDFORD. Could we have a commitment from you that under no circumstances will an individual be allowed to qualify for retirement or be permitted to retire if such a system is initiated who has had less than 5 years of qualifying service?

General CARTER. I don't think this would hurt us at all.

Mr. HARDY. Then we ought to put it in the bill.

Mr. BENNETT. Put it in the statute.

Mr. HARDY. Because while he can commit himself, he can't commit his successor.

Mr. BLANDFORD. No, sir.

I am raising the point. Because these are the problems—I am merely talking about what the law would permit, and not what you are planning to do.

This law, as I see it, gives credit for all prior military service and all prior civil service that you had.

Now, you could, under this law, come in for a very short period of time, be employed by CIA for a very brief period of time, relatively speaking, and then he could apply upon the completion of 20 years total Government service for retirement under this special retirement provision and immediately receive a full annuity, something not possible under civil service.

Now, don't you think we ought to provide in here that a person would have to be a participant in the retirement fund for a number of years under this special retirement fund, a number of years before he would even be eligible to apply for retirement?

Don't you think it would strengthen your bill?

General CARTER. Well, if our bill needs strengthening in this regard to become part of the legislative program, I would want to run a quick check to see just what complications were in this before we said 5 years, 10 years, or whatever it might be.

I submit that there has got to be some degree of discretion, it seems to me, left up to the Director just as it is presently left up to the Director of the Federal Bureau of Investigation, to the Director of the Secret Service, and other activities who must make a similar determination.

Mr. BLANDFORD. I think the whole bill—

General CARTER. I just don't know.

Mr. BLANDFORD (continuing). Is based upon the discretion that you are going to vest in the Director.

But I think the points that are being raised, that Mr. Hardy has raised and other members have raised, concerning this bill, is the fact that this committee, under a very severe handicap, has to explain on the floor of the House how we are setting up a retirement system such as this.

We are going to be precluded from explaining many of the things that you explained to us.

5838

Mr. RIVERS. And we are going to be precluded from explaining a lot of things that could be explained by the Foreign Service and by the FBI and by the Secret Service.

We have to do this. So we want to give them as much as we possibly can.

General CARTER. Yes, sir.

Mr. Chairman, this is one of the reasons why in seeking a solution to our problem, which is a very real one and a very compelling

Mr. RIVERS. We understand.

General CARTER (continuing). We determined that the easiest way, the simplest way to get an equitable program was to get one which was already in existence. And this was the Foreign Service Retirement Act. And then to apply that only to a limited number of our people.

And we would not hesitate publicly to give a feel of just what the activities of these limited people would be. This would not be a real problem, providing we did not get into details.

As I have indicated, it is not over 30 percent of our people at the most.

Mr. BATES. Mr. Chairman.

Mr. RIVERS. Mr. Hardy, have you finished?

Mr. HARDY. Yes, except I would just like to comment on that.

I gamble with you, if this is put into effect, you wouldn't have many CIA directors before the thing would cover everybody in CIA.

General CARTER. I don't know, sir.

Mr. HARDY. That is the trend of Government, General, and you know it just as well as we know it. All you have to do is look at the history, and very recent history, and you would find that wherever there is discretion, it has gone to the winds now.

Mr. BATES. Look at the Joint Staff.

Mr. HARDY. I am all through—yes, look at the Joint Staff. That is a perfect example.

Mr. HODGKINSON. Mr. Chairman.

Mr. RIVERS. Mr. Bates is next.

Mr. BATES. General, I think you can see what has developed here now.

General CARTER. I can see.

Mr. BATES. There are two problems: The one that we are going to have on the floor, and I think also the problem in the mind of these individuals who are interested in their own retirement and what kind of plans can they make. They are interested in those, as you say.

Do you ever give any thought to trying to spell this out for us in the future?

General CARTER. As to the criteria?

We have given a lot of soul-searching study as to just how to spell this out. And I am sure you can see the complications that we go into.

Mr. BATES. How about the FBI?

General CARTER. As to what was the degree of hazard?

This, again, is determined by the Director of the FBI, giving consideration to the degree of hazard to which the employee was

39

...and the performance of his duties, rather than the general nature of the class of the position held by such employee.

The legislative history indicates that its purpose was to allow earlier retirement of certain employees whose duties are primarily the investigation, apprehension, or detention of persons suspected or convicted of offenses against the criminal laws of the United States—in other words, a hazardous type of duty.

But the Director, himself, makes that determination at the time the application is submitted.

Mr. BATES. You are talking now about the 20 or are you talking about over 5, or what?

General CARTER. I am talking about the 50 and 20 provision, sir.

Mr. BATES. General, are you aware of any changes which are being suggested for the FBI now in respect to this 20-year retirement?

General CARTER. No, sir. I am not.

Our legal counsel is not, either—are you aware of any changes that are being proposed for the FBI retirement system?

Mr. O'NEILL. No, sir.

Mr. BATES. Well, there is something in the wind.

Now, whether that just comes from the employees and not the agency, I don't know. But I know the employees have suggested certain changes.

General CARTER. I am not aware of them.

Mr. RIVERS. What you mean, the FBI?

Mr. BATES. Is there a reduced annuity now in the FBI for 50 and 20?

Mr. HOTSTON. Straight 2 percent, I believe.

Mr. WOODYEAR. Straight 2 percent.

General CARTER. Theirs is straight 2 percent.

Mr. BATES. No reductions.

Mr. BLANDFORD. The same thing in the Federal Prisons System.

There is some discussion now for all civil service retirement, to eliminate the reduction in annuity if you provide for your survivor. That is being discussed now.

General CARTER. Mr. Chairman, may I continue with a statement here which I think will answer some of your questions, sir?

Mr. RIVERS. Let's see.

Mr. Bates?

Mr. BATES. Let him proceed.

Mr. RIVERS. Go ahead.

General CARTER. Part C of the proposed act states: "The annuity of a participant shall be equal to 2 percent of his average basic salary for the highest 5 consecutive years of service for which full contributions have been made to the fund."

So before, under this special retirement legislation, a man is eligible, he must have made at least 5 years of contributions to the retirement fund.

Mr. BLANDFORD. I don't think so, General. I don't think so, because you get credit for all your past contributions.

You may mean in this way, but I don't believe that GAO would necessarily interpret it that way.

General CARTER. Yes, sir.

5840

Mr. BLANDFORD. You see, you get credit for all of your prior service for which you have contributed, which automatically goes into the fund.

Mr. RIVERS. But it is based—wait a minute now——

Mr. HUSTON. I think that would be a strained interpretation.

General CARTER. We would have trouble.

Mr. BLANDFORD. How are you going to pick up prior civil service credit then?

Mr. HUSTON. After the 5 years' eligibility commences.

Mr. BLANDFORD. If that is what you mean, then it ought to be spelled out to say that.

Mr. RIVERS. Isn't it the same way the retirement for the Congress. Members of the Congress, is computed, Mr. Blandford?

Mr. BATES. No.

Mr. BLANDFORD. Well, there is a variation. You have to have a minimum of 6 years of service and be age 62 before you qualify for congressional retirement.

Mr. BATES. No.

Mr. RIVERS. I was talking about as to the provision of last year.

Mr. BATES. Congress has various methods, one of which is 50-20, but where it is predicated upon a 15-percent reduction if you are age 50 after 10 years of service.

Mr. RIVERS. But you compute the 5 highest years as the criteria.

Mr. BATES. Yes, sir.

General CARTER. Yes, sir; regardless of the number of years of service more than 5.

Mr. RIVERS. That is right.

Mr. BATES. Now, you use the term "consecutive years." And it might also work out that way, you don't know.

General CARTER. Yes, sir; the highest 5 consecutive.

Mr. BATES. I don't think I ever heard the word "consecutive" used before.

General CARTER. Well, I think that is identical language with the Foreign Service Act, sir.

Mr. BLANDFORD. General——

General CARTER. Yes, sir?

Mr. BLANDFORD. If your interpretation was correct, this system couldn't go into effect for 5 years.

Mr. BATES. Let me follow this for just a minute here, if I may.

Mr. RIVERS. Wait a minute.

Mr. WOODYEAR. Could I say something?

General CARTER. Yes.

I would like, if you don't mind, Mr. Chairman, to have Mr. Wood-year indicate the applicability of this to the Foreign Service Act.

Mr. RIVERS. Now, Mr. Bates——

Mr. BATES. I just want to get this word "consecutive" straightened out.

Mr. WOODYEAR. Well, to go back, sir, the "consecutive" is used on civil service and in the Foreign Service, of 5 consecutive years—not the last 5 years, but the 5 highest consecutive years.

That is, if a man should have received a reduction in salary during his latter years he could still pick up the high 5, but they are consecutive in all systems.

Mr. BATES. They have to be consecutive.

5841

Now, say you have a program where you are 1 year out—
General CARTER. No—

Mr. WOODYEAR. Consecutive employment.

Mr. BATES. Now take these individuals that you had to find a spot for them, and say they were overseas, et cetera, and where they only had 4 years, consecutive years, and then they had to get transferred to another job with a lower pay.

Would you have that kind of a situation develop?

Mr. HELMS. Mr. Bates, we pay our employees at a given rate depending on our own promotion system. We use the civil service pay scales.

Mr. BATES. I understand that.

Mr. HELMS. Yes.

Mr. BATES. But where he had certain skills—

Mr. HELMS. Yes; but as far as we are concerned, it is the five consecutive years with us.

He may get to be a GS-15 and stay there for 5 consecutive years and during that period he may have served in two or three different jobs.

Mr. BATES. That is right.

Mr. HELMS. Yes.

Mr. BATES. So what you pay him is a certain figure we will say for 3 years overseas. Now, say you don't need the skill any more and he comes home. And before he has got 5 consecutive years he is in a different job, not using his old skills because you don't need those any more. So now he doesn't get 5 consecutive years at this high rate, but only 4.

Now does that mean that he has got to get another series of 5 at a lower rate, but a consecutive 5-year period?

In other words, these 4 years—you don't average them. They are gone. Unless you have 5.

Mr. HELMS. That is correct.

Mr. BATES. Now, would you fall into that kind of a situation for a person that we are discussing here?

Mr. HELMS. It could happen.

Mr. ECHOLS. Only if the man left Government service.

General CARTER. Only if he left the Government service, Mr. Bates, would this happen.

Mr. BLANDFORD. I believe the civil service is the 5 higher years.

Mr. BATES. That is right, but not here. This is 5 consecutive.

Mr. RIVERS. Mr. Woodyear has said that the State Department has the 5 highest consecutive years.

Mr. WOODYEAR. Consecutive.

General CARTER. Consecutive.

Mr. WOODYEAR. If he stays in Government—or if he leaves Government and goes to private industry and comes back to CIA with a break, they would still be consecutive employment with CIA.

Mr. BATES. Now let me ask this question: in the Foreign Service, do you ever have the situation develop where a man for 4 years has a high rate of pay and then no longer do you have use for that particular skill, so that you give him another job at a lesser pay and retrain him, as the general indicated—do you ever have that kind of a situation?

Mr. WOODYEAR. I don't recall any such situation, sir.

5842

But if he should happen to retire at the end of that year of training, it would still figure in his 4 highest years, plus the additional year, which might lower his general average.

But it would be the highest five that he had in his entire service.

Mr. BATES. Then—

General CARTER. The highest five.

Mr. RIVERS. It would still be consecutive.

Mr. WOODYEAR. The average of the 5 years.

Mr. RIVERS. You would have four consecutive ones right next to him. That would be five.

Mr. WOODYEAR. But one would be lower, so it would lower the average.

Mr. BATES. You are talking about an average.

Mr. RIVERS. It would be an average there.

General CARTER. We are talking about an average of 5 years, and the 5 years must be a continuous 5 years.

Mr. RIVERS. It will have to average out.

Mr. BATES. No.

He is talking about an averaging out. But you are not talking about any averaging of 5 consecutive years, and 5 highest consecutive years.

Are you talking about an average there?

General CARTER. Yes, sir.

Mr. BATES. Am I talking an average there?

General CARTER. Yes, sir.

When the man is retired, you look over his pay scale and in his best interest you pick the 5 years consecutive, which will give you the highest average salary.

Mr. BATES. Now read that language that you read before.

I don't want to belabor the point, but I don't want to see us fall into a trap here, either.

General CARTER. Yes, sir.

The annuity of a participant shall be equal to 2 percent of his average basic salary for the highest 5 years consecutive years of service.

Mr. BATES. All right.

Now, if you only—the way I read this—

General CARTER. Average basic salary.

Mr. BATES. The way I read this thing here: If you only have 4 years at a high rate, then it doesn't even count. You have to take the 5 highest years you have.

Mr. RIVERS. Oh, no.

Mr. BATES. Wait a minute now.

Mr. RIVERS. That is not the interpretation.

Mr. BATES. No.

I want to get this straightened out.

Mr. RIVERS. Let us get it straightened out.

Mr. BATES. As long as it means average, I won't argue the point any more.

But you say the five highest consecutive—five—

Mr. RIVERS. That is—

Mr. BATES. Then you can't use an average.

Mr. RIVERS. That is the only thing you can use. You use four and the one next to it.

5843

Mr. BLANDFORD. You would have to.

Mr. RIVERS. That is what we do in the Congress. There isn't any other way to do it.

Mr. BATES. Then you are talking about averages.

Mr. RIVERS. That is right.

Mr. BATES. If you are talking about the 5 highest consecutive years and you only have 4, those are out. You have to get down to a lower bracket to find the 5 highest consecutive.

Mr. RIVERS. That is not my understanding.

General CARTER. No, sir.

You might have a man in GS-13 for 2 or 3 years.

Mr. BATES. All right.

General CARTER. And where he is promoted to GS-14 for 2 years. And then he is demoted to GS-13 for 1 year.

That is 5 years.

Mr. RIVERS. That is my understanding.

General CARTER. Three of which are GS-13 and two of which are GS-14.

You add up his basic salary for those 5 consecutive years. You divide by 5. Two percent of that is his annuity.

Mr. BATES. I just wanted to make certain you are talking about averages.

Mr. RIVERS. With this explanation, it does turn out to be average. But it is still the 5 highest.

General CARTER. Yes, sir; still the 5 highest.

Mr. BLANDFORD. To go back to that point—

Mr. BATES. If you use the word "average" it is different. If you don't use the word "average," then you don't get the highest pay.

Mr. RIVERS. Mr. Blandford.

Mr. BLANDFORD. For the sake of the record I indicated it was possible under this bill for an individual to transfer, we will say from the Department of Agriculture with 18 years of service and serve 2 years and qualify for retirement under this special retirement fund.

You indicated that that would not be possible, because you pointed to the 5 consecutive years of service and then you indicated for which full contributions had been made to the fund.

General CARTER. Yes, sir.

Mr. BLANDFORD. Now, obviously this can't be the proper interpretation to place upon this proposed section. Because otherwise your retirement system could no go into effect for 5 years.

General CARTER. That is right.

Mr. BLANDFORD. Would you agree with that?

General CARTER. You are correct; yes, sir.

Mr. BLANDFORD. So therefore it would be possible for an individual to come into this program and serve for as little as 1 year and retire under this special retirement fund.

General CARTER. It would be technically possible, sir.

It would be impossible for him to meet the reasonable criteria—

Mr. BLANDFORD. Well—

General CARTER (continuing). To become eligible for this specific type of retirement.

Mr. BLANDFORD. I am merely trying to put in the record the possibilities, and for you to answer that this is not the way it is intended to be implemented.

5844

That is the reason I am asking these questions.

General CARTER. That is true.

And, Mr. Chairman, I would like to expand on the manner in which this will be implemented.

Mr. RIVERS. Now, also, the committee is quite sympathetic. I want you to understand that. And wherever you can, make the changes in this thing to give us as much information as you can consistently do.

Because with all speed we are going to get it out, but we have to go slowly.

But wherever you can in these areas—Mr. Blandford, Mr. Hardy, and Mr. Bates are all correct—let us give them as much as we can.

We may have to rewrite a lot of these. I am sure we will. But let's do it.

General CARTER. Yes, sir.

Mr. RIVERS. We want you to do that.

Go ahead now.

General CARTER. Mr. Chairman, we have necessarily deviated from the terms of the Foreign Service Act which applies to all Foreign Service officers, since only a limited number of Agency employees will serve under conditions which will warrant their retirement under this law rather than under normal civil service retirement. And those who are to be designated as participants pursuant to this action will undergo a rigid selection process.

This system is designed for those officers whose careers over the years are predominantly concerned with the conduct and support of intelligence activities in foreign countries.

It is intended to designate an employee as a participant in this system at the earliest time after he has gained full career employee status in the Agency.

The earliest time that it can be determined that his career field of work is in the conduct and support of intelligence activities in foreign countries.

Thereafter, his service record will be reviewed periodically to verify that his career has remained in this field and that he is in fact performing qualifying service for sufficient periods of time to warrant his continued designation as a participant.

If on such review it should be determined that an officer's career specialization has permanently shifted to a different field, he will be transferred to the civil service retirement system.

However, when an employee who has been designated as a participant has met all of the minimum requirements for retirement under this system and then shifts to another field of career specialization, he would ordinarily be viewed as having acquired a right to the benefits he has already qualified for and earned under this system, and would be permitted to remain in it.

These criteria will, as I have indicated, be established by the Agency retirement board and then must be approved by the Director.

Mr. BATES. Mr. Chairman.

Mr. RIVERS. Now, this would be a part of our record. So this explanation will go along with our record.

Mr. BATES. General—

Mr. RIVERS. The interpretation.

Mr. BATES. In the military, years ago, they used to talk about an individual getting into the Regular service, and at a certain point, I

3846

that we can determine that his career work is in fact the type of work that will fall under the Director sponsorship as being entitled to early retirement.

Mr. BATES. Well, does that mean at the end of 5 years, at the end of 17 years, or what?

General CARTER. I don't think I can answer that. I doubt if—

Mr. BATES. All I am doing, General, is putting myself in the position of these individuals and wonder just where I stand.

Mr. BATES. Sir, if a person who has been covered by this retirement system attains age 50 and has completed 20 years' service, he would, I gather, be eligible for voluntary retirement.

So even though he continues in our service indefinitely and may transfer to another field of work which no longer qualifies him, he would never be removed from this retirement system, because he has earned his voluntary retirement.

Mr. BATES. When does he earn it?

Mr. ECHOLS. By completion of 20 years of service and upon attainment of age 50.

Mr. BATES. No.

Where you transferred him to a different job and you had to make a determination at some point that he would come under the 50-20 provisions.

You have to do that at some point.

General CARTER. That is right.

Mr. BATES. That is what we are talking about.

When is it decided, even though he is being transferred to another job, whether or not this man has fulfilled the requirements of this special category and will be entitled to the 50-20? That is what I am trying to determine. When will he know this?

Now, you say as early as possible.

General CARTER. He might know this after 6 or 7 years; he might know it. He might not know it until 19 years. He is not going to know definitely.

Because the criteria are determined by the retirement board and the Director. And he could easily qualify, perhaps, in the first 7 years of his career.

That does not mean, however, that we would not keep him on for 20 years.

Mr. BATES. I understand that.

General CARTER. Even though he might be eligible for retirement at age 50 and 20 years of service.

Mr. BATES. So even though you might be able to make this determination earlier, why couldn't you say that certainly by the time he reaches 19 years that he will then be entitled to it?

General CARTER. If he had performed the type of service in his first 19 years that would qualify him so that his last 5 years could be counted, we could tell him and we would tell him.

Mr. BATES. You will have to make up certain regulations.

General CARTER. Yes, sir.

Mr. BATES. And certain things pursuant to the provisions of this act, I imagine they would be published.

General CARTER. Well, they will certainly be published within the Agency.

Mr. BATES. Within the Agency.

5847

So the man will know all about it. It just follows, it seems like to me.

Mr. HARDY. The chances are such regulations would have to be classified and wouldn't be public.

General CARTER. Not generally, but it would be known to every employee of the Agency. We intend to keep the employee informed periodically by a review of his records as to how he stands on his status for early retirement.

Mr. BATES. Wait. This has to be adjudicated by a board or by the Director.

General CARTER. The final decision, sir?

Mr. BATES. Right.

General CARTER. But we will review his records periodically and particularly when there is a change in his assignment, and should be able to inform him—

Mr. RIVERS. I would think—

General CARTER. If he has built up any equity—excuse me, Mr. Chairman.

Mr. RIVERS. I would think, within your regulations, the way you operate the Agency when this act is passed, there would be some provision that you set up where a man could request some sort of a determination at some point down the line.

I mean this would be—something would be convened to do it.

Mr. BENNETT. Mr. Chairman, may I ask a question—

General CARTER. This is no problem, Mr. Chairman.

Mr. RIVERS. I don't think it would be.

General CARTER. None whatsoever, sir.

We have a Director of Personnel. Each of our career services is represented with him in their career services, in their personnel officers.

Mr. RIVERS. I am sure you do.

Mr. BENNETT. Mr. Chairman, I want to ask one question.

Mr. RIVERS. We are going to have to adjourn.

Mr. BENNETT. One brief question.

I would like to ask if, in this statute, is there any minimum length of time that a person must be in this type of activity in order to get the 50-20?

Mr. BLANDFORD. No.

General CARTER. Not in the statute; no, sir.

Mr. BENNETT. I think there should be.

Mr. BLANDFORD. That is what we were talking about.

Mr. BENNETT. I thought you were, but I had some feeling that maybe it was under the 5-year provision.

General CARTER. You could serve in this career service, sir, without ever once being involved in a hazardous operation or, on the other hand, in one operation which would so acclimate you that you should be retired at 50 years and 20 years of service.

Mr. BENNETT. There ought to be some sort of minimum.

In other words, it would leave the fine discretion of the individual's tremendous financial benefits, which could be based upon a month's service or any short service like that.

Mr. BLANDFORD. That is the point we discussed earlier. General, that there ought to be in this bill somewhere a provision that says that you must actually be a participant and have been designated by the Di-

5845

believe it was 15 years, once he had acquired 15 years, then he was good for retirement, if he was in the Regular service.

Now, can't we tie something into this in terms of number of years, to give an individual some sort of assurance, "When I have made the grade, and can I retire on 20, and what kind of plans can I make," and think along that line.

Mr. RIVERS. This is what I had in mind, when I said prepare the changes.

Mr. BATES. Can you take 10 years—

Mr. RIVERS. We ought to give these people some sort of an opportunity to indicate "Just where I am now and where I am going."

Because this thing—the reason you are up here, General, is to look out for a group of people who are under the gun all the time and they can't live for 30 years.

General CARTER. Mr. Chairman, it might appear that this would be helpful to the individual. And I don't think it would be helpful to the Agency across the board to make promises or to indicate a particular career pattern early so that he can conform to and then be guaranteed this early retirement.

Mr. BATES. No.

General CARTER. It just doesn't seem to me in the books that we would want to do this.

Mr. BATES. Let us presume we are going to do the same thing in the military, that at a point certain you then will be entitled under the provisions of the bill to retire on 20.

Now, you can still shift this individual around, performing any kind of work at all. You won't have to keep him in qualifying service but you could assign him to something else, after some point. Maybe 15 years.

Mr. RIVERS. Of course we don't want to get you in the position where a civil service employee can tell you, like they tell the military, that you can't fire them. They do that every day in the week and twice on Sunday.

Mr. BLANDFORD. He does have a guarantee of retirement, because he would shift into the civil service retirement program.

General CARTER. Oh, yes, he always has the guarantee of retirement under civil service.

Mr. BATES. Not this. Not the same as you are going to get.

General CARTER. No, sir.

He would then come under the civil service retirement program, the regular retirement program, unless his service had been so arduous that the Director says "As far as I am concerned, you have met our criteria for early retirement, and when that time comes you have acquired this privilege and you may apply for it."

I can think of other officers in this service who could well be involved in intelligence activities in foreign countries for a large portion of their career, but who would not be eligible for this early retirement because their type of duty did not qualify them.

Mr. BATES. When do these individuals find out when they are going to be entitled to it? When? When they have reached 20?

General CARTER. I can't tell you in years, sir.

Mr. BATES. I mean when they reach 20 years.

General CARTER. We will designate them at the earliest possible time after they have become full career employees—earliest possible

5848

rector as a participant in this fund for a period of 5 years or engaged in such occupation for a period of not less than 5 years as to qualify for this fund.

This is what we are getting at. In other words, to prevent somebody from coming here with a short period of service.

Mr. OSMERS. Mr. Chairman, I wonder if the general would have any objection to that being written—the 5-year minimum being written into the law?

General CARTER. No. This would not give me any problem at all, sir.

Mr. RIVERS. I don't think—

General CARTER. I think we can put it right in without any trouble.

Mr. OSMERS. I think, Mr. Chairman—the principal reservation that I think most of the members of the subcommittee have on the legislation is the fact that it might—I won't use the word "capriciously," but it might in some future situation.

Where you have a man with a very short period of time, this might be used to give him great financial advantage, and if we wrote 5 years minimum it would resolve the problem.

Mr. RIVERS. Let's see if we can.

General CARTER. Yes, sir.

Mr. RIVERS. Now there is the 12 o'clock bell.

Tomorrow morning at 10 o'clock.

General CARTER. Have we adjourned, Mr. Chairman?

Mr. RIVERS. Yes, sir. We will recess until tomorrow morning at 10 o'clock.

Mr. HOUSTON. At what time?

Mr. RIVERS. Ten o'clock.

(Whereupon, at 12:02 p.m., the subcommittee adjourned, to reconvene at 10 a.m., Thursday, July 25, 1963.)

HOUSE OF REPRESENTATIVES,
COMMITTEE ON ARMED SERVICES.

SUBCOMMITTEE No. 1,
Washington, D.C., Thursday, July 25, 1963.

The subcommittee met at 10 a.m., Hon L. Mendel Rivers (chairman of the subcommittee) presiding.

Mr. RIVERS. Let the committee come to order.

Now, Mr. Blandford, where are we?

Mr. BLANDFORD. Mr. Chairman, we have discussed the retirement features in general of this proposal and, of course, there are disability sections which are similar to the Foreign Service Act. There are also provisions for survivors which are similar to those found in the Foreign Service Act.

I would like to suggest to the subcommittee that we briefly discuss title 1 of the bill with the idea in mind that because of the nature of this bill, because it is complicated enough in its retirement features, that we delete all of title 1 from this bill.

Mr. RIVERS. It is my thought, General—and all you gentlemen who had a part in the drafting of this proposal—that you approached this thing with the philosophy that this is your first time really attacking this thing from a permanent, organic act view, dealing with these

NEW BILL

5849

various matters, and that it was your desire to put in everything you could, because it may be one of your last for a long time to get before our committee. But from Mr. Bates' and Mr. Hardy's interrogations and your responses, I hope that wasn't the way you approached it. I feel that we got too much in it. I want to help in providing the things that give you a security, a permanence, and a legal basis for making these representations to the people whom you need, and you do need the best.

And you have such a fine organization and you have such a difficult assignment, having to do all these things, and involving some jobs which aren't easy for an American who is used to living an open book. It is not like these other people.

I would rather—I talked with Mr. Blandford and other members of the committee, and it is my thought that if we would address ourselves to the vital parts of this bill now and get on with the business of setting up between now and next year, you can bring another bill over here, we will take it up, I will tell you that.

I am as interested in CIA as you are, and I think we have an excellent setup. I think an awful lot of both you and Mr. McCone and your representatives over here, everybody who has had contact with me in my acquaintance has been quite impressed with all of them, all whom you have had over here, Mr. Warner, and all these gentlemen. I would think that would be the wise course to pursue now.

Mr. Blandford is of that persuasion. I hope the subcommittee will agree with me.

Mr. HARDY. Mr. Chairman, could I comment on that?

Mr. RIVERS. Yes.

Mr. HARDY. I think—and, of course, I would like to have the general's comment on it—but I think that is going to be one of the most important decisions we can make in connection with this bill, and I do think that some of the provisions that we have been talking about we can probably modify in a way that won't really do any damage to the objectives of the legislation, and avoid controversy that we otherwise would generate.

As a matter of fact, I think you have got, in patterning this thing after the Foreign Service, I think you have some liberal provisions in here which are not necessarily going to be upheld and which can be modified and accomplish everything that you have in mind. So if we can do that, and—I would like to see you have a retirement program for this group of people that would be helpful in recruitment and in retaining people that you need.

Mr. RIVERS. You got to start off copying somebody, for facility. And the thing to do is to try to get the best of all of them. And you could be really the outstanding system which would be envied by other people.

Mr. HARDY. As a matter of fact, as has just been suggested, you might come up with something that would overcome some of the objections in certain existing systems. I would venture a guess that some of these aspects in the Foreign Service program are not necessary for the accomplishment of the objectives that you have in mind, even to the Foreign Service. And I am not at all sure that the actual administration of those in the Foreign Service would stand very close scrutiny without running into an awful lot of congressional objection.

5850

Frankly, I have considered, just as an individual proposing an amendment to the Foreign Service Act, to take out some of these things. I didn't know they were in there, and I expect I know as much about the Foreign Service as most of the members of this committee. So I think that we can correct in this bill some of the things I don't believe Congress knows are in the Foreign Service Act.

Mr. RIVERS. Well, of course, as I said in my statement, we are not expert in this thing, we are more expert in the military end of it. We do have the experts on our staff and committee in that area, but I would rather become expert on something we are proposing for you and let you be the envy of other people, than the things on which we have misgivings. So unless Mr. Bates and the other members have any questions, I would like to consider what Mr. Blandford has suggested. Have you talked to the general?

Mr. BLANDFORD. Just by coincidence, Mr. Chairman, I happen to have a version of this bill which contains three changes in it and is confined solely to retirement.

I would like to suggest, if it is agreeable with the subcommittee, that we substitute at this point for our consideration this substitute bill which deals solely with retirement and eliminates all of title I.

It has three changes, one of them being the protection for the employee, the other being a required minimum service before anyone can take advantage of the GS-14 and above retirement feature. And, of course, this morning the Ways and Means Committee is considering the tax features.

Mr. RIVERS. I spoke to Mr. Mills yesterday and he said he would have a report for us the early part of next week.

Mr. HUDDLESTON. Mr. Chairman, I would like to ask General Carter a question.

General CARTER. Is there anything in title I of such an urgency that couldn't be postponed for consideration by the committee until later on this year or even possibly next year?

General CARTER. No, sir, Mr. Huddleston, there is nothing at all. This is a tidying-up procedure.

Mr. HUDDLESTON. It wouldn't jeopardize your operation in any way?

General CARTER. No, sir, it would not.

Mr. HUDDLESTON. If we postpone consideration of all of title I.

General CARTER. No, sir.

Mr. RIVERS. Mr. Huddleston is a valuable member. This proves it.

Mr. BATES. If there is nothing in there in title I that you feel is absolutely crucial, then I think we ought to proceed without it.

Is there anything by cross-reference in the other titles that pertains to title I? Is there anything by reference?

Mr. O'NEILL. No, sir.

Mr. BATES. It is clean by itself?

General CARTER. Yes, sir. In fact, the proposed new bill just distributed by Mr. Blandford addresses itself entirely to the retirement problem, which is the major reason that we are here now.

Mr. BLANDFORD. I would like to suggest, Mr. Chairman, that at this point—and I think this might be the way to get right to the heart of this—would be to have Mr. O'Neill begin to read the substitute bill. Insert the bill, the substitute bill in the record at this point, so that

5851

there will be a legislative history of what we are considering, and that we start reading the bill at this point.

Mr. RIVERS. Let the record show that at this point, without objection, it is the decision of the subcommittee to insert, in lieu of H.R. 7216, an amended short version of H.R. 7216 dealing primarily with title II.

Mr. BLANDFORD. Yes, sir.

Mr. RIVERS. Which, in effect, and primarily, will be with the retirement system and the administration of it in its entirety. Who handles that? You, General?

General CARTER. The Director, sir.

Mr. RIVERS. By the Director.

General CARTER. Yes, sir.

Mr. RIVERS. Is this plain, Mr. Blandford?

Mr. BLANDFORD. Yes, sir; this is the procedure.
(The bill is as follows:)

[H.R. 7216, 88th Cong., 1st sess.]

A BILL To provide for the establishment and maintenance of a Central Intelligence Agency Retirement and disability system and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Central Intelligence Agency Retirement Act of 1963."

DEFINITIONS

SEC. 2. When used in this Act, the term—

- (a) "Agency" means the Central Intelligence Agency; and
- (b) "Director" means the Director of Central Intelligence.

PART A—ESTABLISHMENT OF SYSTEM

RULES AND REGULATIONS

SEC. 201. (a) The Director may prescribe rules and regulations for the establishment and maintenance of a Central Intelligence Agency retirement and disability system, referred to hereafter as the system.

(b) The Director shall administer the system in accordance with such rules and regulations and with the principles established by this Act.

ESTABLISHMENT AND MAINTENANCE OF FUND

SEC. 202. There is hereby created a fund to be known as the Central Intelligence Agency retirement and disability fund which shall be maintained by the Director. The Central Intelligence Agency retirement and disability fund is referred to hereafter in this title as the fund.

PARTICIPANTS

SEC. 203. The Director may designate from time to time such Agency officers and employees, hereafter referred to as participants, who shall be entitled to the benefits of the system. Any officer or employee who has completed 15 years of service with the Agency and whose career at that time is adjudged by the Director to be qualifying for the System shall remain a participant of such System for the duration of his employment by the Agency.

ANNUITANTS

SEC. 204. (a) Annuitants shall be persons who are receiving annuities from the fund and all persons, including surviving wives and husbands, widows, dependent widowers, children, and beneficiaries of participants or annuitants who shall become entitled to receive annuities in accordance with the provisions of this Act.

(b) When used in this title the term—

5852

Thru

5858

> Text of Bill
NOT INCLUDED

5859

(c) In the event of any overpayment under this section, such overpayment shall be recovered by withholding the amount involved from the salary payable to such reemployed officer or employee, or from any other moneys, including his annuity, payable in accordance with the provisions of this title.

REEMPLOYMENT

SEC. 273. Notwithstanding the provisions of title 5, United States Code, section 62, and title 5, United States Code, section 715a, an Agency officer or employee retired under the provisions of this Act shall not, by reason of his retired status, be barred from employment in Federal Government service in any appointive position for which he is qualified. An annuitant so reemployed shall serve at the will of the appointing officer.

PART I—VOLUNTARY CONTRIBUTIONS

SEC. 281. (a) Any participant may, at his option and under such regulations as may be prescribed by the Director, deposit additional sums in multiples of 1 per centum of his basic salary, but not in excess of 10 per centum of such salary, which amounts together with interest at 3 per centum per annum, compounded annually as of December 31, and proportionately for the period served during the year of his retirement, including all contributions made during or for such period, shall, at the date of his retirement and at his election, be—

- (1) returned to him in lump sum; or
 - (2) used to purchase an additional life annuity; or
 - (3) used to purchase an additional life annuity for himself and to provide for a cash payment on his death to a beneficiary whose name shall be notified in writing to the Director by the participant; or
 - (4) used to purchase an additional life annuity for himself and a life annuity commencing on his death payable to a beneficiary whose name shall be notified in writing to the Director by the participant with a guaranteed return to the beneficiary or his legal representative of an amount equal to the cash payment referred to in subparagraph (3) above.
- (b) The benefits provided by subparagraphs (2), (3), or (4) of paragraph (a) of this section shall be actuarially equivalent in value to the payment provided for by subparagraph (1) of this section and shall be calculated upon such tables of mortality as may be from time to time prescribed for this purpose by the Director.
- (c) In case a participant shall become separated from the Agency for any reason except retirement on an annuity, the amount of any additional deposits with interest at 3 per centum per annum, compounded as is provided in paragraph (a) of this section, made by him under the provisions of said paragraph (a) shall be refunded in the manner provided in section 241 for the return of contributions and interest in the case of death or separation from the Agency.
- (d) Any benefits payable to an officer or to his beneficiary in respect to the additional deposits provided under this section shall be in addition to the benefits otherwise provided under this title.

Mr. RIVERS. So let's now start considering the new proposal, or the amended version. [Reading:]

A BILL To provide for the establishment and maintenance of a Central Intelligence Agency Retirement and disability system and for other purposes

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Central Intelligence Agency Retirement Act of 1963."

SEC. 2. When used in this Act, the term—

- (a) "Agency" means the Central Intelligence Agency; and
- (b) "Director" means the Director of Central Intelligence.

Now, Mr. Blandford, you take up from there.

Mr. BLANDFORD. All right, let's just proceed then, Mr. O'Neill, or General, with an explanation of why we want to change the definition or what the definitions means. Let's start right from there and read the bill and explain it as we go along.

Mr. RIVERS. Go ahead.

Mr. O'NEILL. All right, sir.

5860

Mr. BATES. I don't want to nit-pick, but on the second line, "to establish the maintenance of a Central Intelligence Retirement and disability system," shouldn't that be caps on those?

Mr. BLANDFORD. I think either the "retirement" ought to be small or the "disability" ought to be large.

Mr. BATES. No, this is retirement, not the establishment of an agency. So it would have to have caps on the "retirement."

Mr. BLANDFORD. Then "disability" ought to be capitalized.

Mr. RIVERS. We can correct that.

Mr. BLANDFORD. I might also make another suggestion and that is some words of limitation in the title, itself, to get away from the idea that this is going to apply to all of the CIA.

Mr. BATES. Right.

Mr. BLANDFORD. I would suggest this title, Mr. Chairman, "To Provide for the Establishment and Maintenance of a Central Intelligence Agency Retirement and Disability System for a Limited Number of Employees and for Other Purposes."

Mr. RIVERS. That takes care of it.

Mr. HARDY. That suits me.

Mr. BENNETT. That is good.

Mr. HARDY. If it should be desirable to put a limit on the number, specifically, we can do that in another section.

Mr. BLANDFORD. We may have to get into that when we get into the sections.

Mr. RIVERS. I think that will take care of it.

Mr. BLANDFORD. All right.

Mr. RIVERS. Are you ready to read the bill?

Mr. O'NEILL. Yes, sir.

Mr. RIVERS. Go ahead.

Mr. O'NEILL (reading):

DEFINITIONS

SEC. 2. When used in this Act, the term—

- (a) "Agency" means the Central Intelligence Agency; and
- (b) "Director" means the Director of Central Intelligence.

In explanation, these are routine definitions.

Mr. BLANDFORD. All right.

Mr. O'NEILL (reading):

PART A—ESTABLISHMENT OF SYSTEM

RULES AND REGULATIONS

Mr. BATES. Mr. Chairman, I would suggest that from here on any of these technical points with reference to numbers—

Mr. BLANDFORD. We will take care of it.

Mr. BATES. Be handled by the staff. We will just stick with the substantive matters.

Mr. O'NEILL. Fine.

SEC. 201. (a) The Director may prescribe rules and regulations for the establishment and maintenance of a Central Intelligence Agency retirement and disability system, referred to hereafter as the system.

Mr. BENNETT. There is something wrong right there. That sounds like a general proposition.

Mr. HARDY. This is where you are going to insert that "for a limited number."

5861

Mr. BLANDFORD. "For a limited number."

Mr. O'NEILL. "For a limited number." and so forth.

Mr. BLANDFORD. "For a limited number of employees."

Mr. O'NEILL. Period. [Reading:]

(b) The Director shall administer the system in accordance with such rules and regulations and with the principles established by this Act.

ESTABLISHMENT AND MAINTENANCE OF FUND

SEC. 202. There is hereby created a fund to be known as the Central Intelligence Agency retirement and disability fund which shall be maintained by the Director. The Central Intelligence Agency retirement and disability fund is referred to hereafter in this title as the fund.

Mr. BENNETT. Now right there, again this reads as if it is a general retirement thing. I am wondering if it should be given such a general title and general aura, when it is for a specialized minority of your employees.

Mr. O'NEILL. Although it is for a minority, it would be a separate and distinct special fund for the handling of this activity.

Mr. BLANDFORD. I think we could add the words on line 18, after the word "fund", "for a limited number of employees."

Mr. HARDY. If you have got it covered in section 201, I don't know why you need it here.

Mr. BLANDFORD. It is just to repeat.

Mr. RIVERS. Then you are coming to the participants, that is coming up.

Mr. HUDDLESTON. This merely lists the title of the fund.

General CARTER. If we insert the words—we have already defined this, "hereafter referred to as the system." So if we use "the system" throughout, I think we are covered, sir.

Mr. RIVERS. I think it is plain enough.

Mr. BATES. Right.

General CARTER. Yes, sir.

Mr. O'NEILL. In explanation of this section, the section gives the director the authority necessary to establish and maintain a retirement system and to prescribe rules and regulations governing its administration.

Mr. BLANDFORD. Now obviously in connection with this, the 6½ percent contribution will go into this fund and that money, in turn, will be invested in Government bonds, and so forth. Will the general rules of investment, as applies to the civil service retirement fund, apply to this fund?

Mr. O'NEILL. The present considerations would be that this would be handled in Government investments, yes, sir.

Mr. BLANDFORD. Government investments. Now, this will then necessitate a separate appropriation hereafter for the Government's contribution, and also for any additional annuities that may be added by Congress at a later date which is not carried in the fund, and it is understood, therefore, that with this language, this, in effect, means that you will have to obtain appropriations at a later date and also will require appropriations for any add-on's to the program which may come about as a result of any additions in annuities that may be hereafter provided for Government employees who are covered.

5862

Mr. O'NEILL. That is correct, sir.
Next subtitle:

ESTABLISHMENT AND MAINTENANCE OF FUND

SEC. 202. There is hereby created a fund to be known as the Central Intelligence Agency retirement and disability—

Mr. BLANDFORD. You already read that.

Mr. O'NEILL. Sorry. Our explanation on that would be the same as we have previously covered.

Mr. RIVERS. To "Participants".

Mr. O'NEILL (reading):

PARTICIPANTS

SEC. 203. The Director may designate from time to time such Agency officers and employees, hereafter referred to as participants, who shall be entitled to the benefits of the system. Any officer or employee who has completed fifteen years of service with the Agency and whose career at that time is adjudged by the Director to be qualifying for the system shall remain a participant of such system for the duration of his employment by the Agency.

Period.

Mr. BATES. Now that is new language there.

Mr. BLANDFORD. Yes, sir.

Mr. O'NEILL. That is new language.

Mr. BLANDFORD. That is what you suggested, as a matter of fact, yesterday. Is that satisfactory?

Mr. BATES. That is what I had in mind. Is it satisfactory?

General CARTER. Yes, sir.

Mr. RIVERS. It sounds good to me.

Mr. O'NEILL. This would insure that an individual in the system who has had 15 years of service would know at that time that he was not in any danger of being moved out of the system at a later date.

Mr. RIVERS. I think that would cover it.

Mr. O'NEILL. In addition, this section necessarily deviates from the comparable provisions of the Foreign Service Act, since Foreign Service officers are automatically covered by virtue of their appointments under the Foreign Service Act. However, only a limited number of Agency employees will serve under conditions which will warrant other than normal retirement considerations, and those who are to be designated as participants, pursuant to this section, will undergo a rigid selection process.

Mr. BLANDFORD. May I suggest at this point the possibility of these words: "shall at his election remain a participant for the duration of his employment by the Agency."

Would there be any advantage or disadvantage at that point to the individual to have—

Mr. RIVERS. To make an election?

Mr. BLANDFORD. To have this done at his election?

Mr. HARDY. I think what you are talking about, there could be a situation and I can't think of one, but there might be a situation under which a person would have retirement credits, availability of retirement under another system which might be adversely affected by his being required to stay under this.

Mr. BLANDFORD. That is really what I am trying to say. I can't visualize the situation.

Mr. HARDY. I can't either, but it is a possibility.

5863

Mr. RIVERS. He may jump from security to insecurity.

Mr. HARDY. You might even have a situation where a person would be eligible for military retirement and fall in this category, also, and it might be to his disadvantage if he were by statute compelled to stay in this system.

Mr. RIVERS. Why don't we ask the general?

Mr. HARDY. It wouldn't hurt anything to put "at his election" in there.

Mr. O'NEILL. All right.

Mr. RIVERS. Why don't we ask General Carter.

You come under that category. How many years did you have?

General CARTER. Thirty-two years, sir.

Mr. RIVERS. How did this thing affect your—

General CARTER. I am not eligible.

Mr. BLANDFORD. You are on active duty, aren't you?

General CARTER. Yes, sir, I am on active duty. I am not eligible.

Mr. RIVERS. If you weren't, you would have had to have a special act of Congress.

Mr. HARDY. No.

Mr. RIVERS. We did.

Mr. BATES. Yes, we did.

Mr. RIVERS. Wait a minute, we had to do it for—

Mr. BATES. For General Swing.

Mr. HARDY. Yes, but CIA specifically is permitted a certain number—

Mr. BLANDFORD. The Deputy Director, by law, may be a member of the military.

General CARTER. Yes, sir. I am assigned there, sir, by the military.

Mr. RIVERS. But you wear two hats, really.

General CARTER. No, sir. I am afraid not, Mr. Chairman.

Mr. RIVERS. Aren't you military?

General CARTER. Yes, but I am a statutory appointment of the President.

Mr. BLANDFORD. Doesn't the law say that the Director or Deputy Director, but not both, may be military?

General CARTER. Yes, sir, that is true.

Mr. BATES. You get paid by whom, CIA?

General CARTER. I get paid by the military, but the Department of Defense is reimbursed by the CIA for my pay.

Mr. BATES. Right. Now on your retirement you will be retired as a military officer?

General CARTER. Yes, sir.

Mr. RIVERS. You will get 5 percent under our pay bill, won't you?

Mr. BATES. If you were a reservist you would get both.

Mr. RIVERS. If you were a reservist you could do it.

General CARTER. Yes, sir.

Might I suggest, sir, on line 6, after the word "system," if we take out the word "shall" and say "may elect to."

Mr. HARDY. That would do it.

Mr. RIVERS. I think that would cover whatever Mr. Hardy has in mind.

General CARTER. This gives all of the election, then, to the individual. I think is the purpose of this.

99-066-65-No. 26-6

5864

Mr. RIVERS. That is right. I think that would cover it. I don't know of a case.

Mr. HARDY. Actually, you could have a case right now, because CIA is permitted to employ up to 15 retired military officers, is it?

General CARTER. Yes, sir.

Mr. HARDY. So if you had a military officer employed by CIA presumably he is also drawing military retirement, isn't he?

Mr. BLANDFORD. They are subject to the Dual Compensation Act, but not subject to the Dual Employment—

Mr. RIVERS. Not unless he is a Reserve.

Mr. BLANDFORD. The Regular is subject to the Dual Compensation Act, but not subject to the dual employment statute.

Mr. RIVERS. That is right.

Mr. HARDY. This is the only agency I know of that has that special permission.

Mr. BLANDFORD. No, sir, there are many other agencies. The Veterans' Administration can hire 25 retired officers who are not subject to the Dual Employment Act. The original CIA request in 1948, was to hire 25 retired officers without regard to the dual employment or dual compensation provisions. We reduced it to 15 who could be hired without the dual employment but subject to the Dual Compensation Act, which means that the only Regular officer who could be employed without regard to the dual compensation provision is an officer retired for combat wounds or as a result of an instrumentality of war.

Mr. HARDY. Anyway, I think this wording—

Mr. RIVERS. Now the next thing is section 204, "Annuitants."

Mr. O'NEILL (reading):

ANNUITANTS

Sec. 204. (a) Annuitants shall be persons who are receiving annuities from the fund and all persons, including surviving wives and husbands, widows, dependent widowers, children, and beneficiaries of participants or annuitants who shall become entitled to receive annuities in accordance with the provisions of this Act.

(b) When used in this title the term—

(1) "Widow" means the surviving wife of a participant who was married to such participant for at least two years immediately preceding his death or is the mother of issue by such marriage.

(2) "Dependent widower" means the surviving husband of a participant who was married to such participant for at least two years immediately preceding her death or is the father of issue by such marriage, and who is incapable of self-support by reason of mental or physical disability, and who received more than one-half of his support from such participant.

(3) "Child" means an unmarried child, under the age of eighteen years, or such unmarried child regardless of age who, because of physical or mental disability incurred before age eighteen, is incapable of self-support. In addition to the offspring of the participant and his or her spouse, the term includes (a) an adopted child, and (b) a stepchild or recognized natural child who received more than one-half of his support from the participant.

Mr. BLANDFORD. Is there anything in that section that in any way is different from the Foreign Service Act?

Mr. O'NEILL. No, sir, this section defines annuitants who may be eligible for benefits under the retirement system, and contains nothing else.

Mr. BLANDFORD. I call the subcommittee's attention to only one feature and that is the language which says "or is the mother of issue

5865

by such marriage," which might mean the mother of an illegitimate child would be eligible for the benefits, which apparently is true for the Foreign Service Act.

Mr. O'NEILL. Yes, sir.

Mr. HARDY. I don't know whether this is a good idea. I had it marked, myself, because this is the same kind of thing that we hashed over thoroughly in the Survivors Benefits Act—what constituted a widow, and so forth. I was a little troubled with providing coverage for these illegitimate children.

Mr. BENNETT. We have a pattern already. It is easier to follow the pattern.

Mr. HARDY. You want to protect the wives.

Mr. BATES. What is the language in the veterans' compensation laws?

Mr. BLANDFORD. I don't believe the VA recognizes illegitimacy, although you can legitimize children.

Mr. BLANDFORD. What is the subcommittee's pleasure?

Mr. HARDY. You want to protect a mother of an illegitimate child, make her a beneficiary?

Mr. BLANDFORD. Or do you want to protect the illegitimate child?

Mr. HARDY. That is different.

Mr. BENNETT. As a practical matter, you are protecting the child, they have it in the Foreign Service, so let's do it here.

Mr. RIVERS. You want the measure, don't you?

Mr. O'NEILL (reading):

PART B—COMPULSORY CONTRIBUTIONS

SEC. 211. (a) Six and one-half per centum of the basic salary received by each participant shall be contributed to the fund for the payment of annuities, cash benefits, refunds, and allowances. An equal sum shall also be contributed from the respective appropriation or fund which is used for payment of his salary. The amounts deducted and withheld from basic salary together with the amounts so contributed from the appropriation or fund, shall be deposited by the Agency to the credit of the fund.

(b) Each participant shall be deemed to consent and agree to such deductions from basic salary, and payment less such deductions shall be a full and complete discharge and acquittance of all claims and demands whatsoever for all regular services during the period covered by such payment, except the right to the benefits to which he shall be entitled under this Act, notwithstanding any law, rule, or regulation affecting the individual's salary.

Mr. RIVERS. It never occurred to me that you would have to put all that in there to take out 6½ percent.

Mr. O'NEILL. Yes, sir, you do. This section provides for contributions to the retirement fund, as you mentioned both by the employee and by the Agency at this rate of 6½ percent of basic salary, which is the same under both the Foreign Service retirement system and the civil service retirement system.

Mr. RIVERS. Go ahead.

Mr. BLANDFORD. This means that once a person has put in the fund he has no choice as to whether or not he wants to be in it or not, the 6½ percent will be deducted.

Mr. O'NEILL. Yes, sir.

Mr. BLANDFORD. So civil service is optional?

Mr. HARDY. Civil service is not optional.

Mr. RIVERS. Not if you get under it, you are under it.

5866

Mr. BLANDFORD. But you have to sign a piece of paper to say you want to get in it.

Mr. HARDY. No, that is legislative only.

Mr. BLANDFORD. That is just for that?

Mr. HARDY. Yes. You elect, but the others don't.

Mr. BLANDFORD. I see. I thought everybody was like me.

Mr. HUDDLESTON. You have to resign to withdraw your fund.

Mr. RIVERS. This is interesting when you write these acts in the organic form, you start off the basis for the whole system. You learn a lot about it.

Mr. HARDY. Six and a half percent is the same rate of deductions that will apply to all your employees, is that right?

Mr. O'NEILL. That is right.

General CARTER. Everyone.

Mr. RIVERS. Everybody.

Mr. HARDY. You would have trouble if you ever get to a point where you have a differentiation in the rate.

Mr. RIVERS. This is the same for everybody.

Mr. HARDY. All right.

Mr. RIVERS. Let's go to the next section.

Mr. O'NEILL (reading):

PART C—COMPUTATION OF ANNUITIES

SEC. 221. (a) The annuity of a participant shall be equal to 2 per centum of his average basic salary for the highest five consecutive years of service, for which full contributions have been made to the fund, multiplied by the number of years, not exceeding thirty-five, of service credit obtained in accordance with the provisions of sections 251 and 252.

Mr. BLANDFORD. Thank you very much, you just saved me a question.

Mr. O'NEILL. Very well.

In determining the aggregate period of service upon which the annuity is to be based, the fractional part of a month, if any, shall not be counted.

(b) At the time of retirement, any married participant may elect to receive a reduced annuity and to provide for an annuity payable to his wife or her husband, commencing on the date following such participant's death and terminating upon the death of such surviving wife or husband. The annuity payable to the surviving wife or husband after such participant's death shall be 50 per centum of the amount of the participant's annuity computed as prescribed in paragraph (a) of this section, up to the full amount of such annuity specified by him as the base for the survivor benefits. The annuity of the participant making such election shall be reduced by 2½ per centum of any amount up to \$2,400 he specifies as the base for the survivor benefit plus 10 per centum of any amount over \$2,400 so specified.

(c) (1) If an annuitant dies and is survived by a wife or husband and by a child or children, in addition to the annuity payable to the surviving wife or husband, there shall be paid to or on behalf of each child an annuity equal to the smallest of (i) 40 per centum of the annuitant's average basic salary, as determined under paragraph (a) of this section, divided by the number of children; (ii) \$600; or (iii) \$1,800 divided by the number of children.

(2) If an annuitant dies and is not survived by a wife or husband but by a child or children, each surviving child shall be paid an annuity equal to the smallest of (i) 50 per centum of the annuitant's average basic salary, as determined under paragraph (a) of this section, divided by the number of children; (ii) \$720; or (iii) \$2,160 divided by the number of children.

Mr. BLANDFORD. Does that mean that the maximum benefit that would be paid to the family of a deceased member of your organization who participates would be \$2,160, divided by the number of chil-

5867

children? In other words, if a man died with two children, \$2,160 is still the maximum amount that would be paid to those children?

Mr. O'NEILL. To the individual child.

Mr. BATES. You only get the smallest; you only get the \$720.

Mr. BLANDFORD. That is what I am saying; \$2,160 is the maximum.

Mr. RIVERS. Maximum.

Mr. BLANDFORD. To be paid to those two children. That seems like an awful small amount for a man who—

Mr. O'NEILL. That amount, the smallest of these three amounts, would be the amount paid each child.

Mr. BATES. You wouldn't get that \$2,160 divided by 2; you would get the \$720 each.

Mr. O'NEILL. Yes, sir.

General CARTER. If there were two children; that is correct.

Mr. RIVERS. Or \$2,160—

Mr. BATES. It is the smallest, Russ.

Mr. BLANDFORD. Yes; they wouldn't each get \$2,160, would they?

General CARTER. No, sir.

Mr. BLANDFORD. Supposing this fellow has been in the fund for some time, and actually the fund, the children, say, are 16 and 17; there is no surviving wife. And he has contributed \$15,000. And you are going to pay two children \$720 a year for the next 2 years. What happens to the rest of that money?

Mr. O'NEILL. There is provision for return of excess amounts paid in, sir.

Mr. BLANDFORD. All right. Go ahead.

Mr. BENNETT. Can we refer back here a minute, because I am afraid in our history of this legislation about this question of widows and children we have left something in the record which was not the intention of the statute, as far as Foreign Service is concerned.

It says here, section 204, subsection 1, page 4, if you read this section about "mother of issue by such marriage," you will see it doesn't refer to illegitimate children, per se. Grammatically it refers to a widow who must always be a surviving wife.

Mr. O'NEILL. Yes.

Mr. BENNETT. It could be a surviving wife married for 2 years or married for less than 2 years, and there was a child.

Mr. O'NEILL. Yes, sir.

Mr. BENNETT. The only way "illegitimate" would ever come into this picture would be if there was an illegitimate child occurred before the marriage and then there were a subsequent marriage. That is fantastic, because if you try to make this into saying "widow is the mother of issue by such marriage," you are referring back to a marriage, so it doesn't refer to an unmarried person at all. This refers only to married people.

Mr. WOODYEAR. May I make a comment on that?

Mr. RIVERS. Go ahead.

Mr. WOODYEAR. The Department of State's interpretation on that has been exactly as Mr. Bennett has described it, a combination of marriage and issue by such marriage. The illegitimate children, if any, are covered by the phrase "natural child" on the next page. If a man has an illegitimate child he recognizes, and pays the support of, we would not deny him that right.

5868

Mr. BENNETT. I just wanted to clear this up. We were creating something not in the statute.

Mr. WOODYEAR. That is not interpreted by the Department that way.

Mr. BLANDFORD. I am delighted to know that, but point out I would be happy to take a case to court of claims without this legislative history and say that widow can also be defined as the mother of issue, and the mother does not have to be married.

Mr. BENNETT. It says "by such marriage."

Mr. BLANDFORD. But the "or" is there.

Mr. BENNETT. The "or" referred to "was" and "is."

Mr. BLANDFORD. It might.

Mr. BENNETT. Let's don't make it any worse. If they have construed it this way, all right.

Mr. BLANDFORD. That is why I am trying to make the record, to prove or establish your point. I just won't want the GAO at some future time, if this is the intention, that it is not to be applied to the unmarried mother of children, then the record, as you say, ought to point it out, because certainly I got the wrong interpretation of it.

Mr. WOODYEAR. Here you are defining "widow" and not the mother of a child, and your interpretation would make the mother of an illegitimate child a widow, and that is not intended.

Mr. BENNETT. Correct. Grammatically it is not possible.

Mr. WOODYEAR. It is the "natural child" on the next page that does take care of the "illegitimate."

Mr. RIVERS. Let the record show that, and let the record show that the intent of the Congress is as Mr. Woodyear and Mr. Bennett explained it, and GAO can't go off the track, because in the construction of any statute you have to go to the legislative history.

Mr. BLANDFORD. May I put this in the record at this point, section 204(a)(1) in the definition of "widow" means a person who has been married to a participant for 2 years or a person who has been married to a participant for less than 2 years who has children by the participant.

Mr. BENNETT. Correct.

Mr. RIVERS. I think that covers it.

Mr. BLANDFORD. All right.

Mr. RIVERS. Then any construction would have to go along—that would clearly show the intent of the Congress. It is the only place you can get it.

Go ahead. Thank you, Mr. Bennett.

Mr. O'NEILL (reading):

(d) If a surviving wife or husband dies or the annuity of a child is terminated, the annuities of any remaining children shall be recomputed and paid as though such wife, husband, or child had not survived the participant.

(e) The annuity payable to a child under paragraph (c) or (d) of this section shall begin on the first day of the next month after the participant dies and such annuity or any right thereto shall be terminated upon death, marriage, or attainment of the age of eighteen years, except that, if a child is incapable of self-support by reasons of mental or physical disability, the annuity shall be terminated only when such child dies, marries, or recovers from such disability.

(f) At the time of retirement an unmarried participant may elect to receive a reduced annuity and to provide for an annuity equal to 50 per centum of the reduced annuity payable after his or her death to a beneficiary whose name shall be designated in writing to the Director.

5869 missing

5870

Mr. HARRY. Because this may or may not be valid, but this is the way I look at it. Actually, the costs, the Federal Government's cost is increased whenever you tie, at least it is expected to be increased whenever you tie it to survivorship. I think we can fully justify an increase in the Government's cost where survivorship is related to the dependents, or perhaps to even blood relatives, but I think it is recognized that a cost of survivorship increases the total actuarial value of a person's estate.

You are expanding the Government's obligation in order to permit an annuitant to make a better provision for his survivors, I have a little trouble justifying increasing the Federal cost to increase the estate of an annuitant who doesn't have dependents, and it just happens to be somebody that he wants to pass his benefits to.

Mr. RIVERS. Let's hear what you have to say.

Mr. O'NEILL. While you were speaking I refreshed my own recollection. I noticed there are severe penalties placed on the individual for exercising this election.

Mr. RIVERS. Read that.

Mr. O'NEILL. Continuing with section 221(f):

The annuity payable to a participant making such election shall be reduced by 10 per centum of an annuity computed as provided in paragraph (a) of this section and by 5 per centum of an annuity so computed for each full five years the person designated is younger than the retiring participant, but such total reduction shall not exceed 40 per centum. No such election of a reduced annuity payable to a beneficiary shall be valid until the participant shall have satisfactorily passed a physical examination as prescribed by the Director. The annuity payable to a beneficiary under the provisions of this paragraph shall begin on the first day of the next month after the participant dies. Upon the death of the surviving beneficiary all payments shall cease and no further annuity payments authorized under this paragraph shall be due or payable.

There are stated, sir, in explanation, three restrictions; one, the reduction; two, requiring the beneficiary to have a physical examination; and third, the termination of all benefits and no refund of excess moneys after the death of the beneficiary.

Mr. BLANDFORD. The beneficiary is not examined, the participant is examined. Frankly, I don't know why the participant should be given a physical examination. What are you trying to do—determine how long the participant is going to live, or how long the beneficiary? The beneficiary is the key to it—how long she is going to live. In one respect it is important from the viewpoint of how long this reduction in retirement income is going to take effect, but there is nothing in here, for example, in this language, that precludes me as a participant, unmarried participant, from electing a 2-year-old child who will live to be 150 years old, from being the beneficiary here. It is only going to be—the only reason they are examining me, I presume, is to determine how long I am going to live after I retire; but supposing the participant doesn't pass the physical examination, what do you prove?

Mr. RIVERS. The Director has some discretionary power there, that is what it gives him. Let's ask Mr. —

Mr. BATES. I can see a circumstance. Take a man who now is ready to retire but he is on his deathbed, take that situation, and all of a sudden he decides he wants to turn this money over to someone else.

Mr. RIVERS. To a girl he has been courting for 15 years.

Mr. BATES. He would have to pass the physical under this, wouldn't he?

5871

Mr. O'NEILL. Yes, sir.

Mr. HARDY. If he is ready to retire, he can draw out his retirement contributions, can't he, at this point, in this situation?

Mr. O'NEILL. No, sir, he cannot withdraw his money.

Mr. BLANDFORD. I think it is any time up to 20 years you can draw it out.

General CARTER. At the time he retires I believe the money he has put into it is sequestered in the fund and remains there for the purposes of paying his annuity. He cannot withdraw it in a lump sum.

Mr. HARDY. If he dies, then, before he has retired, then his estate would get back what he paid in.

Mr. O'NEILL. Yes, sir.

General CARTER. Yes, sir.

Mr. BENNETT. Is that so?

General CARTER. Yes, sir.

Mr. BENNETT. Is that true of all civil service retirement? You get back what you paid in?

Mr. BATES. Plus interest.

General CARTER. Yes, sir.

Mr. BATES. It used to be 4 percent. I don't know what the interest is now.

Mr. RIVERS. Let me ask a question, Mr. Blandford.

Now, you took this from the Foreign Service Act?

Mr. O'NEILL. Yes.

Mr. RIVERS. Maybe Mr. Woodyear can give us some kind of explanation. What is the reason for this, Mr. Woodyear?

Mr. WOODYEAR. The reason for this is the man has a vested interest in his retirement benefits which he has bought through the years and it is assumed if he is unmarried he has a right to make an election.

Mr. RIVERS. He had built up an estate in it.

Mr. WOODYEAR. That is right. This also is a provision under the civil service system. The civil service system goes further than the Foreign Service system does, in that an insurable interest must be established in the person that is designated as beneficiary who is not a relative.

Mr. BENNETT. That is not required here?

Mr. WOODYEAR. That is not required here.

Mr. BLANDFORD. This would be a valid provision here, if the person had to have an insurable interest in the individual. For example, you can always insure a relative, within restrictions, within certain States, but you can't insure—I couldn't insure Sonny Liston when he fights Lucius Clay if I decided he was going to make some money out of it.

Mr. RIVERS. You wouldn't have to.

Mr. WOODYEAR. I think almost without exception in the Foreign Service our system is a small one, not many examples, but such elections have been for distant relatives who were dependents of the participant.

Mr. BENNETT. That is the relative situation, where they are actually dependent, I think that makes a good deal of sense.

Mr. HARDY. I wouldn't have any trouble with that.

Mr. BATES. Let me ask, say he had two individuals, one who had a son, the other individual was unmarried but he had a nephew.

Now, under the first case, he can only get it to age 18, or is it, 21 unless there is something wrong with him?

5872

Mr. WOODYEAR. 21.

Mr. BATES. Now, let's take the situation of a nephew, he can get that reduced annuity the rest of his life if this individual so elects?

Mr. WOODYEAR. That is correct.

Mr. BATES. Is that right?

Mr. WOODYEAR. If the individual reduces his annuity by pretty close to 50 percent by the time he gets through. The nephew would be so much younger than he was, it would almost wipe out—

Mr. BATES. Not to exceed 40 percent, the total reduction. So if Uncle John wants to leave it to his nephew; that he can do?

Mr. WOODYEAR. That is true.

Mr. BATES. And this continues the length of the nephew's life?

Mr. WOODYEAR. Yes.

Mr. BATES. But the father of this other lad, he only gets it 2 or 3 years.

Mr. WOODYEAR. But such determination is at the discretion of the Secretary, and I would not think that the Secretary would approve or the Director would approve such election, unless that nephew was crippled or disabled or in some way so totally dependent that he would not be self-supporting. There is a discretion in effect there.

Mr. BATES. Where is that language about the discretion?

Mr. BENNETT. Let's restrict it to dependents. I think it ought to be. Unless it is, I think it ought to be out.

Mr. HARDY. I wouldn't have any trouble with dependents.

Mr. RIVERS. What about the word—

Mr. BATES. Can I get an answer?

Mr. WOODYEAR. That is implied, sir, in that "shall name, whose name shall be designated in writing to the Director."

Mr. BATES. I see no prohibition there.

Mr. WOODYEAR. That has been interpreted in the Department, the designation in writing to the Director presupposes his acceptance or rejection of such designation.

Mr. BATES. I can't read that into it.

Mr. HUDDLESTON. I can't.

Mr. WOODYEAR. That has been our interpretation of it.

Mr. BLANDFORD. How about adding the words, then, Mr. Chairman—and I think this may cure it: "whose name shall be designated and accepted in writing."

Mr. HARDY. That is still too broad: unless you tie dependents to it. I don't think you have helped.

Mr. BLANDFORD. At least you give the Director some leeway to turn it down.

Mr. RIVERS. He can do it now.

Mr. BENNETT. Why not change it to dependent or beneficiary?

Mr. RIVERS. What about the words "insurable interest"?

Mr. BLANDFORD. You get into trouble.

Mr. RIVERS. I can conceive of a situation: I live in a place where they have a lot of different nationalities and most Europeans have very close family ties. Italians, Germans, all of them. I can think of an uncle who wants to take care of a nephew, as Mr. Bates was talking about: very close, never got married, and I think he has built up an estate of some sort, even though the Government has contributed all they had, at least he has contributed 40 percent. I don't think we should deny him—

5873

Mr. HARDY. I don't see that. I don't know where you get the 40 percent from.

Mr. RIVERS. If they put in 60 percent and the Government puts in—

Mr. HARDY. The Government puts in 61½ percent but that doesn't necessarily take care of the requirement. It wouldn't nearly—

Mr. RIVERS. You say the Government put it all in: the Government doesn't put in more than he does.

Mr. HARDY. Yes; it does.

Mr. RIVERS. But for the accident of not being married he is denied any discretion from doing anything with whatever he built up, call it what you want.

Mr. HARDY. I wouldn't have any problem with permitting him to designate up to the actuarial equivalent of his investment plus the 61½ percent of the Government, but when you go into dependents you extend this thing over a long period of time, and the costs against the fund run way up and in all probability will involve substantial additional appropriations to keep the fund going.

Mr. BENNETT. Unless the word "dependents" is added before the word "beneficiary" I don't like it and would like to strike it.

Mr. BLANDFORD. I would like to suggest this language, Mr. Chairman: On line 25,

payable after his or her death to a beneficiary dependent upon the participant for over one-half of his support, whose name—

Mr. BENNETT. That is better yet.

Mr. HARDY. I will buy that.

Mr. BENNETT. Let's buy that.

Mr. RIVERS. How does that sound, General?

Mr. WOODYEAR. Might I make a comment there, Mr. Chairman?

Mr. RIVERS. Yes.

Mr. WOODYEAR. The Department has draft legislation now in which it is proposed that this be clarified by using the term "having an insurable interest," and because of the possible impact this might have upon the Foreign Service Act—

Mr. HARDY. Maybe we should do it now, then, in order that it would have an impact.

Mr. BENNETT. Mr. Blandford's suggestion is better anyway.

Mr. RIVERS. He is trying to agree with you, if you all let him.

Mr. WOODYEAR. We would prefer "insurable interest" rather than "dependent" because there may be situations which I can't—

Mr. BLANDFORD. Let me ask you. This takes me back to law school, when I took a course on insurance. I found every State in the Union had different laws on who and what was an insurable interest.

Mr. RIVERS. I took the same thing and I don't remember anything about it.

Mr. BLANDFORD. I am going to fish now.

What would determine the insurable interest, the laws of the District of Columbia, in which the fund is payable from, the situs of the fund, or the domicile of the beneficiary?

Mr. WOODYEAR. I am sorry, I could not answer that, Mr. Blandford. The Civil Service—

Mr. BLANDFORD. You see the problem you are going to run into?

Mr. WOODYEAR. I see it.

5874

Mr. BLANDFORD. In some States a cousin—you may have an insurable interest in a cousin, in other States a cousin is not insurable, because there is no insurable interest. This would be my only reaction, would be that I don't know where you look to determine whether there is an insurable interest.

Mr. WOODYEAR. I suspect that the Civil Service Commission has devised ground rules based upon the combination of insurable interest rulings, but I don't know the answer to that, sir.

Mr. BLANDFORD. I think we ought to—

Mr. HARDY. I will accept the language suggested by Mr. Blandford.

Mr. BENNETT. I like that best.

Mr. RIVERS. Let's tentatively—

Mr. BLANDFORD. Put that in there.

Mr. RIVERS. Let's tentatively accept that and we will come back to it later.

Mr. HUDDLESTON. Repeat that language.

Mr. BLANDFORD. "Dependent upon the participant for over one-half of his support."

Mr. BENNETT. Where does that go?

Mr. BLANDFORD. Right after the word "beneficiary" on page 7, line 25.

Mr. RIVERS. Of course, as a practical matter, if you get any of these people who are not married and he starts looking around for some of his people to contribute to—

Mr. HARDY. If he is doing that, I wouldn't be concerned with it.

Mr. RIVERS. A lot of them do anyway.

Mr. HARDY. Yes.

Mr. HUDDLESTON. I would like to inquire of Mr. Blandford what his intention there is. Suppose a child is dependent on the participant for one-half of his support and that child grows up, does he continue to draw this reduced annuity?

Mr. BLANDFORD. He would under this language, because once it vests, it continues.

Mr. BENNETT. That is better than it was.

Mr. RIVERS. A child is the issue of a man.

Mr. HUDDLESTON. No; not this thing that Russ is talking about.

Mr. BENNETT. There is no other retirement system that allows that. This would be the only one except for the Foreign Service.

Mr. BLANDFORD. The only point I am making is that the odds are—I am thinking of Mr. Bates' point—the odds are that a participant who elects to cover a person who is dependent upon him for one-half of his support will invariably be a relative.

Mr. HARDY. More than likely.

Mr. BLANDFORD. Or a close relative. I think Mr. Bates' point is a good point. There are a lot of cases of uncles who have supported nephews and nieces, sent them through school, and all sorts of things, provided clothing for them and everything, who are not eligible as beneficiaries under our definition of "beneficiary," and we don't want to close the door to this unmarried participant, because the chances are there will be somebody among his relatives who will be dependent upon him.

This precludes naming someone in Paris that he has known for 5 or 6 years.

5875

Mr. BENNETT. Mr. Huddleston's point has not been touched on. He is making the point that the other kind of dependent, like a child only gets it for a certain period while this one is going to get it until they are 150.

Mr. BLANDFORD. With quite a considerable reduction in the amount payable.

Mr. BENNETT. I am willing to settle on that.

Mr. RIVERS. What you are overlooking, though, let's say—and General Carter is going to have to be the man who has to make the determination. All General Carter has got to say to my satisfaction, he has proved that so and so was sufficiently dependent on him, and I have concluded that he is, and that is it.

It all goes back to the Director.

Mr. HARDY. But if you don't put something in here to tie it to dependency he wouldn't have a leg to stand on.

Mr. RIVERS. What I am trying to say is yours would in some measure give you something to work on.

General CARTER. I would like to have Mr. Echols refer to the civil service system.

Mr. ECHOLS. As Mr. Woodyear indicated, the civil service retirement system has a somewhat similar provision for a nondependent, a nonrelative, to receive the survivor benefit. I quote here from—read from the Civil Service pamphlet describing their particular provision. The question is, what is meant by an insurable interest?

And it states:

If the person named can reasonably expect to receive some kind of financial benefit from the continuance of the life of the retiring employee, an insurable interest exists. Generally speaking, any near relative would have an insurable interest in the retiring employee. If a person other than a near relative is named, proof of an insurable interest may be required.

So this is the basis upon which the Civil Service—

Mr. HARDY. That is a regulation that might be subject to a court contest, where you have got just the words "insurable interest." Unless it is defined in the act, itself, I should think a good lawyer might have a field day with that.

Mr. ECHOLS. I am sure a suit could develop.

Mr. HUDDLESTON. What is the Civil Service Act, what does their provision say?

Mr. RIVERS. Insurable interest.

Mr. HUDDLESTON. I want to get the wording of it.

Mr. BLANDFORD. I tried to find that and couldn't find it.

Mr. RIVERS. Didn't you just get through saying "insurable interest"?

Mr. BENNETT. Under civil service does it allow those people who have insurable interest—can they get it until they are 100, even though they are not dependents?

Mr. RIVERS. Once it is established, it is established.

Mr. ECHOLS. It is indefinite.

Mr. BENNETT. How about a child, an actual son? In other words, you are doing more for people that just have an insurable interest, whose interest is not as close, than you are for actual children.

General CARTER. You are making them pay a lot more for it.

Mr. BLANDFORD. They are taking a reduction in income to do this.

5876

This is where you get into your deathbed election, and this is where the physical examination comes in. Apparently what this section means is that if a man, if a participant is in pretty bad shape physically, the Director could refuse to accept, or refuse to designate this person as the beneficiary. I assume that is what it means. And therefore this is an actuarial section, where the Director must conclude that there will be a sufficient contribution on the part of the participant to at least justify the election.

Would that be a reasonable interpretation of this section?

Mr. ECHOLS. Yes.

Mr. HARDY. I don't know how you can interpret it that way.

Mr. BLANDFORD. That is the only way I can see it. I don't see what the language would mean that the participant must pass a physical examination, you see. It is only aimed at preventing a deathbed election, that is the first thing.

General CARTER. That is the purpose.

Mr. BATES. That is all I can see in it.

Mr. ECHOLS. Yes.

Mr. BLANDFORD. This, therefore, must be based on the premise that from an actuarial viewpoint the odds are that the money withheld from his retirement over a period of years will be sufficient to pay for the amount of the annuity that will be paid to the beneficiary who is named. This is the only thing. And at that point I assume, although the bill doesn't say this, that in determining his physical condition the age of the beneficiary must be taken into consideration.

In other words, a man with a heart condition, who could be expected to live for 10 or 15 years, might be allowed to designate somebody who, say, is 50 years old, whereas a man with a heart condition, where he would only have this money withheld for 10 years, might not be allowed to participate in the program if he was going to name some 2-year-old nephew who might live to be 95.

Mr. HARDY. If this gives that much discretion to the Director, why, it is the craziest screwball thing anyhow. We ought not to ever permit that kind of a determination. You put the Director then in the position of being the father of everybody who retires.

Mr. RIVERS. He is going to have to assume a lot of responsibility.

Mr. HARDY. I know, but he ought not to make that kind of decision.

Mr. BLANDFORD. I can only suggest what the words "No such election of a reduced annuity payable to a beneficiary shall be valid until the participant shall have satisfactorily passed a physical examination as prescribed by the Director" mean?

Now, there has to be a reason for this; it must be based upon an actuarial equivalent.

Mr. HARDY. Then you would have to say that anybody who retires for disability would be ineligible to exercise this provision. And I don't think there is anything in here—

Mr. BLANDFORD. No; it says it could be made ineligible, but it doesn't mean he is ineligible.

Mr. HARDY. Then you give that discretion to the Director? We ought not to give that discretion to anybody. I don't think the Secretary of State ought to have that discretion in the Foreign Service.

Mr. OSMERS. Mr. Chairman.

Mr. RIVERS. Mr. Osmers.

5877

Mr. OSMERS. I have listened to the dialog with great interest and occasional humor. However, aren't we losing sight of the fact that the Director of this Agency has a very important national responsibility for the safety and the security of the Nation, and aren't we burdening him with a great many personnel matters which, in effect, will cause him to become a judge of borderline personnel cases, such language as "shall satisfactorily have passed a physical examination as prescribed by the Director."

We also have him prescribe the type of physical examination, and it would seem to me, Mr. Chairman, that rather than to keep chewing on this particular point, that this section be rewritten so that the Director will understand and Congress will understand what an unmarried person can expect who is employed under this law.

Mr. RIVERS. I think if we get out here and concoct all kinds of hypotheticals—

Mr. BATES. This has got to be rewritten. We don't know what it means ourselves.

Mr. RIVERS. We will be here until doomsday. Why don't we do just as Mr. Osmers has suggested? Because the Director is only going to make—he is only going to set these things up once, he is going to delegate these things to somebody. That is the way it is going to be handled.

Mr. OSMERS. Obviously.

Mr. RIVERS. I kind of favor that insurable interest.

Mr. HARDY. If you define "insurable interest" in the act itself, I wouldn't object to it, otherwise I think you would have to tie it to dependents.

Mr. HUDDLESTON. I would like to have the civil service law with relation to this read so we can see it. Do you have it?

Mr. ECHOLS. I have it here, sir.

Mr. RIVERS. Wait a second. Mr. Osmers is on.

Mr. OSMERS. I certainly agree with Mr. Huddleston, that we should have that read. Again, of course, the Director, quite properly, would delegate an authority as complicated and detailed as this. But on the other hand, an employee who did not agree with the decision of the delegated party would certainly, under the law, appeal, if you will, to the Director, because of this language. And this, again, engages the Director in personnel disputes and affects his ability to enjoy the confidence of other members of the Agency, if they should disagree with one of his personnel decisions.

Mr. RIVERS. Of course you can't delegate that to anybody else, you have the directive. I don't know how you can get around that. He has to assume full responsibility.

Go ahead and read what you have there.

Mr. ECHOLS. Each of you have it in your books, sir, if you would like to read it yourself, or I can read it.

Mr. BLANDFORD. What page is that on?

Mr. ECHOLS. Tab 5, page 18, upper right-hand corner.

Mr. RIVERS. Civil Service Retirement Act.

Mr. ECHOLS. Upper left-hand corner. Paragraph H.

Any unmarried employee or member retiring under section 6 or 8 and found by the Commission to be in good health may, at the time of retirement, elect a reduced annuity in lieu of the annuity as hereinbefore provided, and designate in writing a person having an insurable interest in the employee or member to

5878

receive an annuity after the retired individual's death. The annuity payable to the employee or member making such election shall be reduced by 10 percent of an annuity as computed in section 9 and by 5 percent of an annuity so computed for each full 5 years the person designated is younger than the retiring employee or member, but such total reduction shall not exceed 40 percent.

Mr. HUMBLESTON. Now that is the provision that applies to all CIA employees except the ones covered by this retirement system?

Mr. ECHOLS. Yes, sir.

Mr. HUMBLESTON. Why can't we incorporate that in there?

Mr. BLANDFORD. Why don't we substitute that language for this language?

Mr. HARDY. I think that is a good answer to it.

Mr. RIVERS. That would be a good answer.

Mr. OSMERS. With the word "Director" instead of "Commission."

Mr. HARDY. I would prefer also to have a definition of "insurable interest" incorporated in the statute and not depend on regulations for it.

Mr. BLANDFORD. I don't think you could—I mean I think what you have in this case, Mr. Hardy, is a long line of decisions now that the civil service has had this law, and for us to attempt to define an insurable interest would create a new regulation.

Mr. HARDY. If that is sufficiently well-established.

Mr. RIVERS. We certainly can't afford to give these people any less than the regular civil service employees. We positively can't do that.

Mr. BENNETT. So let's give them exactly what they have got.

Mr. BLANDFORD. And leave the definition of an insurable interest to the interpretations placed upon it by the Civil Service Commission.

Mr. RIVERS. That would be a good solution.

Mr. BLANDFORD. All right, let's rewrite that section then.

Mr. RIVERS. Mr. Osmers always helps us.

General CARTER. I might point out, Mr. Chairman, there is no difference in the reduced annuity or the payable annuities, it is purely the manner in which it is administered and this is entirely acceptable to us. I think it is a fine thing.

Mr. RIVERS. Mr. Blandford, you check it.

Mr. BATES. The only thing that still bothers us is that good health provision.

Mr. BLANDFORD. Well, that is the actuarial equivalent concept, that is all. This is the very thing that you discussed here, to prevent the election being made on the deathbed to provide a continuing annuity.

Mr. BATES. I wonder if somebody could talk this over with Civil Service and find out exactly.

Mr. RIVERS. Mr. Blandford, you get commander—what is that fellow's name over there.

Mr. BENNETT. I think it would be better to comply with Civil Service.

Mr. RIVERS. Who is that retired officer from the Supply Corps?

Mr. BLANDFORD. Commander Downs.

Mr. RIVERS. Yes.

Mr. BLANDFORD. Actually, I think this ought to be checked with Civil Service.

Mr. RIVERS. Let's do that. Let's go to the next provision.

We don't want to get to nitpicking. We are doing too well.

5879

Mr. O'NEILL (reading):

PART D—BENEFITS ACCRUING TO CERTAIN PARTICIPANTS—

Mr. RIVERS. What page are you on?

Mr. O'NEILL. Page 9. [Reading:]

RETIREMENT FOR DISABILITY OR INCAPACITY—PHYSICAL EXAMINATION—RECOVERY

SEC. 231. (a) Any participant who has five years of service credit toward retirement under the system, excluding military or naval service that is credited in accordance with provisions of section 251 or 252(a)(2), and who becomes totally disabled or incapacitated for useful and efficient service by reason of disease, illness, or injury not due to vicious habits, intemperance, or willful misconduct on his part, shall, upon his own application or upon order of the Director, be retired on an annuity computed as prescribed in section 221.

Mr. RIVERS. This is the Ways and Means language.

Mr. BLANDFORD. "Incurred in the line of duty" was the recommendation of the Ways and Means Committee.

Mr. O'NEILL. On line 8 I left out the words "incurred in the line of duty." I shall go back and read.

Mr. RIVERS. All right.

Mr. O'NEILL (reading):

SEC. 231. (a) Any participant who has five years of service credit toward retirement under the system, excluding military or naval service that is credited in accordance with provisions of section 251 or 252(a)(2), and who becomes totally disabled or incapacitated for useful and efficient service by reason of disease, illness, or injury incurred in the line of duty not due to vicious habits, intemperance, or willful misconduct on his part, shall, upon his own application or upon order of the Director, be retired on an annuity computed as prescribed in section 221. If the disabled or incapacitated participant has less than twenty years of service credit toward his retirement under the system at the time he is retired, his annuity shall be computed on the assumption that he has had twenty years of service, but the additional service credit that may accrue to a participant under this provision shall in no case exceed the difference between his age at the time of retirement and the mandatory retirement age applicable to his grade in the Agency.

Mr. BLANDFORD. That raises a question.

Mr. BATES. Sure does.

Mr. BLANDFORD. Incurred in line of duty, it is all right for the Ways and Means to talk about the taxability of this, but when you put incurred in line of duty in this provision you are saying that an individual with 19 years of service who is injured while on leave in an automobile accident will not be entitled to any retirement benefits for disability. Now, isn't that what you do?

General CARTER. No, sir, that is in line of duty. From the military interpretation, it has always been line of duty, unless—

Mr. BLANDFORD. It has always been until we wrote the Career Compensation Act. But you are on dangerous ground. It has to be related to the activities of the individual in his job. Believe me, that is so. That happens to be suspended, because of an emergency. But it is in the law, and we very definitely made a change in the law in 1949. So "incurred in line of duty" used to be the law, but it isn't any more, although it has been suspended.

General CARTER. I see.

99-066-63-No. 26-7

5880

Mr. BLANDFORD. What I am saying is that it seems to me that "incurred in line of duty" could be interpreted, for example, the way it can be interpreted under the Career Compensation Act, that an individual with less than 8 years of service who is injured on leave under the law is not injured as a proximate result of performance of active duty, you see.

Why did the Ways and Means Committee get into this phase of it?

Mr. O'NEILL. The reason they got into it, sir, they found, this is the words of staff in conversation—they found that the absence of these words which are contained in the State provision would grant a disability allowance for individuals regardless of the cause of injury, as you have just pointed out, and they did not feel that this extra tax boon should be available to this limited number of people.

Mr. BLANDFORD. That is a different proposition. They can state that the amount that you receive will not be taxable unless it is incurred in line of duty, but I think it is this committee's decision to decide whether or not the injury will justify disability retirement.

Mr. OSMERS. Mr. Chairman, it seems to me that the words immediately following, "not due to vicious habits, intemperance, or willful misconduct," protects the Government from the type of—I don't think that it is our particular function here to determine the tax liability of the payments.

Mr. BLANDFORD. That is a different proposition.

Mr. OSMERS. It is a different matter.

Mr. RIVERS. I think so too.

Mr. OSMERS. But you, I think, would narrow the benefits tremendously if you said "incurred in line of duty." It would be like somebody driving home from someplace or standing on a sidewalk and somebody drives a car up.

Mr. BATES. You have to determine what that means.

Mr. BLANDFORD. It doesn't belong in this section. I don't think they really intended it to be in this section. I think it ought to be out.

General CARTER. Fine. Let's take it out.

Mr. RIVERS. Is that all right with you?

General CARTER. Yes, sir; fine, sir.

Mr. RIVERS. All right. Get to the next one.

Mr. O'NEILL. Page 10, item (b):

In each case, the participant shall be given a physical examination by one or more duly qualified physicians or surgeons designated by the Director to conduct examinations, and disability shall be determined by the Director on the basis of the advice of such physicians or surgeons. Unless the disability is permanent, like examinations shall be made annually until the annuitant has reached the statutory mandatory retirement age for his grade in the Agency. If the Director determines, on the basis of the advice of one or more duly qualified physicians or surgeons conducting such examinations that an annuitant has recovered to the extent that he can return to duty, the annuitant may apply for reinstatement or reappointment in the Agency within one year from the date his recovery is determined. Upon application, the Director may reinstate any such recovered disability annuitant in the grade in which he was serving at time of retirement, or the Director may, taking into consideration the age, qualifications, and experience of such annuitant, and the present grade of his contemporaries in the Agency, appoint him to a grade higher than the one in which he was serving prior to retirement. Payment of the annuity shall continue until a date six months after the date of the examination showing recovery or until the date of reinstatement or reappointment in the Agency, whichever is earlier. Fees for examinations under this provision, together with reasonable traveling and other expenses incurred in order to submit to examination, shall be paid out of the fund. If the annuitant fails to submit to examination as required under

5881

this section, payment of the annuity shall be suspended until continuance of the disability is satisfactorily established.

(c) If a recovered disability annuitant whose annuity is discontinued is for any reason not reinstated or reappointed in the Agency, he shall be considered to have been separated within the meaning of section 234 as of the date he was retired for disability and he shall, after the discontinuance of the disability annuity, be entitled to the benefits of that section or of section 241(a) except that he may elect voluntary retirement in accordance with the provisions of section 233 if he can qualify under its provisions.

Mr. BLANDFORD. What does that mean?

General CARTER. 233 is the voluntary retirement, 50 years, and 20 years of service, if he comes under the criteria established by the Director.

Mr. BLANDFORD. Or severance pay less the amount of annuity? How does this work, just as an example? A man recovers from a disability, he has been drawing—

Mr. RIVERS. Explain how he has the examinations.

Mr. BLANDFORD. Yes.

Mr. RIVERS. The guidelines the Director should follow.

Now, you get to the point where you see how you restore him.

Mr. BLANDFORD. Yes. What I am getting at is if the man recovers from his disability and he hasn't enough years of service to draw an immediate annuity, I presume he can either accept a deferred annuity or he can get the severance pay if he is a GS-13 or below, or he can get the immediate annuity if he is a GS-14 or above, if he meets the qualifications dealing with GS-14's?

General CARTER. If he is involuntarily selected out. If he recovers from his disability we would anticipate he would return to active duty with the Agency.

Mr. BLANDFORD. Suppose he does not, he has taken a job with an insurance company, started a new career, he has recovered, what does he get?

Mr. ECHOLS. Deferred annuity.

Mr. BLANDFORD. Is that all?

Mr. ECHOLS. Yes.

Mr. BLANDFORD. I thought this implied that he would get what was left of what hadn't been paid to him, or does he get what he has already contributed, refunded to him without regard to the annuity payments? I just want to make sure what he gets.

Mr. RIVERS. That is what that is, isn't it?

Mr. ECHOLS. He would have the option of withdrawing any unexpended balance of his contributions if he left Government service.

Mr. BLANDFORD. In other words, he gets the annuities paid to him, and then he can either accept a deferred annuity or he can withdraw any balance left of what he has contributed to the fund, is that it?

Mr. ECHOLS. That is my understanding.

Mr. BATES. Is he always entitled to a deferred annuity there? He may not be.

Mr. BLANDFORD. If he has over 5 years.

Mr. ECHOLS. Yes.

Mr. RIVERS. If he has the statutory minimum.

Mr. ECHOLS. Or 30 years, if earned.

Mr. BATES. Under these circumstances when it is taken away from him, when the disability allowance is taken away from him, does he then have to go the distance, as far as time is concerned? Five-

5882

year limitation doesn't get into effect then, does it? Doesn't he have to get on the 5 and 20, or the regular provisions? He has recovered, now.

Mr. ECHOLS. He has recovered; yes, sir.

Mr. BATES. Now, unless he has enough time for regular retirement, he doesn't get it. The only thing he would get, he would either get paid back the balance of what he put in, but there is no deferred annuity unless he has the full amount of time for regular retirement.

Mr. BLANDFORD. You only need 5 years to earn a deferred annuity. That is the point. Under this system your annuity vests at age 60; under civil service your annuity vests at age 62.

Now, anybody—for example, if an elevator operator, a kid out here, works for the Government for 5 years and then leaves the Government service, he can leave his contribution in the civil service retirement fund and at age 62 he will get something in the neighborhood of \$32 a month for the rest of his life. That is the way it operates.

Mr. RIVERS. But you have to attain that retirement age.

Mr. BLANDFORD. You have to have 5 years in the system.

Mr. RIVERS. And retain—

Mr. BLANDFORD. And leave the money in the fund.

Mr. RIVERS. And you have to reach the retirement age.

Mr. BLANDFORD. Age 62 in civil service or 60 under this provision.

Mr. RIVERS. All right. That is the interpretation.

Mr. OSMERS. Sixty or fifty?

Mr. BLANDFORD. It is 60 here for the deferred annuity. The only other case—and this is the reason I brought it up—is that supposing—

Mr. BLANDFORD. GS-14 and above, who elects not to go back to work, having been retired for disability, he elects not to go back to work, would he then qualify for the immediate annuity because he is a GS-14?

General CARTER. No, he would not.

Mr. BLANDFORD. What I am getting at is the Director says "You are recovered, you are a GS-15, we love to have you back in the Agency."

He says, "No thanks, I have another job. I am happy now, I have been out for 5 years. I am well established in business."

Then, as I understand it, this section would not permit—the section dealing with GS-14 would not permit that individual who could have drawn an immediate annuity because he had 5 or more years of service, this section would not permit him to draw an immediate annuity based upon his 2 percent for each year of service?

Mr. ECHOLS. No, sir.

Mr. BLANDFORD. Is that correct?

Mr. ECHOLS. Only if he were age 50, and had 20 years.

Mr. BLANDFORD. No, wait a minute, let's get this clear.

Mr. WOODYEAR. Only if he were eligible for voluntary retirement with 20 years of service.

Mr. BLANDFORD. You have to be 50 years of age and have 20 years of service in order to draw an immediate annuity.

Mr. WOODYEAR. Yes.

Mr. BLANDFORD. He would not qualify under the latter provision in here which says if you are a GS-14 and above, you can draw an

5883

immediate annuity based upon 2 percent for each year of service completed. He does not qualify for that provision, is that correct?

General CARTER. That is only for involuntary separation.

Mr. BLANDFORD. I want to make sure that this does not apply.

General CARTER. This would only apply to involuntary separation.

Mr. HARDY. If he can arrange to be let out he would be in good shape, wouldn't he?

Mr. RIVERS. You couldn't—we aren't going to put that kind of dishonesty in the—

Mr. HARDY. That is not necessarily dishonest at all.

Mr. WOODYEAR. May I make a suggestion for a minor amendment to page 10, top of the page, line 15. We have run into trouble with the physical examination, since people are retired for disability on mental—for mental reasons. And if we had "medical examination" there, which we are now seeking, it is much easier to live with than "physical."

Mr. HARDY. That might be a good idea.

Mr. RIVERS. Yes.

Mr. OSMERS. Yes.

Mr. RIVERS. You have had a lot of experiences that these people have.

Mr. BLANDFORD. Strike out the word "physical" and substitute "medical."

Mr. WOODYEAR. Substitute "medical."

Mr. HUDDLESTON. Good idea.

Mr. RIVERS. I think that is a good idea.

Mr. OSMERS. That should apply to Congressmen, too, Mr. Chairman.

Mr. RIVERS. Well, now, where are we?

General CARTER. We are still on paragraph C, sir, which is line 20 on page 11.

Mr. HARDY. I thought we got down to page 12.

General CARTER. And in the case of a recovered disability annuitant who is not reinstated in the Agency, he will be considered to have been separated within the meaning of article 234, which is the discontinued service retirement as of the date he was retired for disability. And after the discontinuance of a disability annuity he will be entitled to the benefits of that section 234 or of section 241. He can elect voluntary retirement if he is eligible under the terms of section 233.

Mr. RIVERS. Yes.

Mr. HARDY. But if he comes back to duty, wouldn't he be eligible to come back to duty?

General CARTER. Yes, sir.

Mr. HARDY. All right. If he comes back to duty, then he puts himself in the position of being eligible for selection out, if there should be some little thing he couldn't perform, so he would be sort of silly, wouldn't he, to drop out immediately and take a deferred annuity?

Mr. RIVERS. I would say that is a calculated risk.

General CARTER. It would be the individual's choice, in the discretion of the Director.

Mr. RIVERS. That would be a calculated risk.

Mr. HARDY. Yes, but he has recovered, he has more than 5 years, he is in grade 14 or above and he comes back on duty, not knowing

5884

whether he is going to be selected out right quick or not, but if he gets back on there and proves that he is not really needed, he could or might be able to do that.

General CARTER. If he is a GS-14 or above, he could be retired involuntarily and he would get 2 percent per year of his pay, which amounts to an annuity of about 10 percent, sir.

Mr. RIVERS. He would get 10 percent.

General CARTER. Ten percent under the 5-year insertion which we have put in here.

Mr. HARDY. If it were to his advantage to take an immediate retirement we could be pretty doggoned sure he would come back on duty and would find a way eventually to get selected out.

General CARTER. Well, this, again, is at the discretion of the Director, and I am sure when we find people in the Agency who are creating means for getting selected out—

Mr. HARDY. That might be a little hard to do.

General CARTER. Not with the statutory authority of the Director, sir. He, fortunately, under the National Security Act of 1947, as amended, can terminate people in his discretion.

Mr. HARDY. You can keep him working and keep on paying him his full salary in spite of the fact that he is not delivering? You are not going to do anything of the kind.

General CARTER. We don't do it that way.

Mr. HARDY. Of course you are not.

Mr. HOUSTON. We do not do that, sir.

Mr. RIVERS. You may decide not to rehire him.

Mr. HARDY. Anyway, let's get down to the other section.

Mr. RIVERS. Let's go. We have a tendency to be—where are we now?

Mr. BATES. We finished that paragraph here, I guess.

Mr. RIVERS. We had (d) on page 12.

Mr. HARDY. Right.

Mr. BATES. If he doesn't come back he loses the time for credit for retirement purposes as of the date he did retire for the disability.

General CARTER. If he does not come back.

Mr. BATES. If he does come back, how about time then?

Mr. BLANDFORD. It doesn't count.

General CARTER. Start picking it up.

Mr. BLANDFORD. The time on the retired list does not count as active duty for purposes of retirement at some future date: am I correct?

Mr. O'NEILL. Yes, sir.

General CARTER. Yes, sir.

Mr. RIVERS. I wouldn't think it would.

Mr. BLANDFORD. It can be interpreted that way for military retirement, that is the reason I think Mr. Bates asked the question.

Mr. BATES. Yes.

Mr. HARDY. But he would be eligible for promotion to a higher grade.

Mr. BLANDFORD. Yes, that time counts.

Mr. RIVERS. He might be a very valuable man. That is the reason for that.

Mr. HUDDLESTON. May I ask just one question at that point, Mr. Chairman?

5885

General. I notice that this recovered disability employee can be hired back or reinstated at the same level or at a higher level, but there is no reference to reinstating him at a lower level. Why is that left out?

General CARTER. I don't know why it was left out, except we would not expect to bring back a disability retiree at a lower level.

Mr. HIDDLESTON. Well, it might be a man that, say, lost his leg, and as a result of that loss of a limb he wouldn't be able to perform his old job, but still he might have some qualities that are needed in the Agency and you might bring him back at a reduced level.

Mr. HARDY. He would be eligible for more then, George.

Mr. HIDDLESTON. This would be precluded.

Mr. HARDY. He would have more authority and responsibility.

General CARTER. I think it would be an administrative determination, sir.

Mr. BENNETT. I don't believe you can settle all these things by statute.

Mr. RIVERS. I don't think so. You have got to trust somebody.

Mr. HIDDLESTON. But the fact that they mentioned reinstating him at a higher and the same levels, and don't say anything about the lower level, would seem to preclude the possibility.

Mr. BLANDFORD. I think it is basically for the protection of the individual.

General CARTER. Of the individual.

Mr. RIVERS. I think so.

Mr. BLANDFORD. Yes: it is guidance for the Director that assures the man that he will not come back at a lesser rate than when he retired.

Mr. RIVERS. Isn't that right, Mr. Woodyear?

Mr. WOODYEAR. In 1958 we had no provision for bringing them back on a mandatory basis, you could declare a man to be recovered, deny him his annuity, not offer him a job. So in the interest of protecting him we employed mandatory reinstatement and assumed that he would not offer him less than he had been paid at the time of retirement for disability.

Mr. HARDY. You don't have to find him physically able to come back, though?

Mr. WOODYEAR. It is presupposed if he is reemployable and recovered from his total disability, which means total disability insofar as Foreign Service around the world is concerned, that he is able to come back.

Mr. RIVERS. Now section (d), on page 12.

Mr. O'NEILL (reading):

(d) No participant shall be entitled to receive an annuity under this Act and compensation for injury or disability to himself under the Federal Employees' Compensation Act of September 7, 1916, as amended, covering the same period of time. This provision shall not bar the right of any claimant to the greater benefits conferred by either Act for any part of the same period of time. Neither this provision nor any provision of the said Act of September 7, 1916, as amended, shall be so construed as to deny the right of any person to receive an annuity under this Act by reason of his own services and to receive concurrently any payment under such Act of September 7, 1961, as amended, by reason of the death of any other person.

Mr. BLANDFORD. That is a husband and wife combination, where the husband died, wife drawing FEC compensation, and she also may be retired for disability.

5886

Mr. O'NEILL. It could be, sir. [Reading:]

(e) Notwithstanding any provision of law to the contrary, the right of any person entitled to an annuity under this Act shall not be affected because such person has received an award of compensation in a lump sum under section 14 of the Federal Employees' Compensation Act of September 7, 1910, as amended, except that where such annuity is payable on account of the same disability for which compensation under such section has been paid, so much of such compensation as has been paid for any period extended beyond the date such annuity becomes effective, as determined by the Secretary of Labor, shall be refunded to the Department of Labor, to be paid into the Federal employees' compensation fund. Before such person shall receive such annuity he shall (1) refund to the Department of Labor the amount representing such computed payments for such extended period, or (2) authorize the deduction of such amount from the annuity payable to him under this Act, which amount shall be transmitted to such department for reimbursement to such fund. Deductions from such annuity may be made from accrued and accruing payments, or may be prorated against and paid from accruing payments in such manner as the Secretary of Labor shall determine, whenever he finds that the financial circumstances of the annuitant are such as to warrant such deferred refunding.

This total section makes provision for retirement of employees who become disabled or incapacitated for duty. It establishes procedures for physical examinations and subsequent return to duty when an annuitant has recovered to the extent that he can return to duty.

The section further bars payment of a disability annuity if the employee is given an award of compensation for the same disability under the Federal Employee's Compensation Act.

"Death in service," section 232.

Mr. RIVERS. I think this would be a good place to—

Mr. BLANDFORD. You left out (f).

Mr. O'NEILL. Going back now to line 14—

Mr. BLANDFORD. This is the Ways and Means Committee language.

How is the Ways and Means Committee going to handle this; have they told you?

Mr. O'NEILL. It is not determined at the moment. They are going to go to full committee hearing, but the date or time has not been set. I believe it is subject to some discussion possibly with Chairman Rivers, but they were unable to set a time for us last night.

Mr. BLANDFORD. This is to make the disability annuity not subject to taxes.

Mr. RIVERS. Yes.

Mr. O'NEILL. So I would like to insert on page 14, line 20—

Mr. BLANDFORD. You and I are using different copies.

Mr. O'NEILL. Yes; a different reference here. This would be the new top of page 14. It is here and I have not read it yet. [Reading:]

(f) Paragraph (4) of section 104(a) of the Internal Revenue Code of 1954 (26 U.S.C. 104(a)(4)) (relating to the exclusion from gross income of compensation for injuries and sickness) is hereby amended to read as follows:

"(4) amounts received as a pension, annuity, or similar allowance for personal injuries or sickness resulting from active service in the armed forces of any country or in the Coast and Geodetic Survey or the Public Health Service, or as a disability annuity payable under the provisions of section 831 of the Foreign Service Act of 1946, as amended (22 U.S.C. 1081; 60 Stat. 1021), or as a disability annuity payable under section 231 of the Central Intelligence Agency Retirement Act of 1963."

General CARTER. Mr. Chairman—pardon me.

Mr. OSMERS. Go ahead.

5887

General CARTER. There are only about three additions to the bill which were made yesterday, last night, as a result of discussions here in the committee.

One is on page 17, an important one; one is on page 18, also an important one, addressing itself to the 5-year provisions which have been discussed by the subcommittee.

All of the other provisions of the bill are as originally submitted, and in conformance with prior legislation.

Mr. OSMERS. Basically, Mr. Chairman, what is the problem? Now, the subcommittee has gone over this.

Mr. RIVERS. The 5 years is the main one.

Mr. HARDY. That is the one I have questions on.

Mr. HIDDLESTON. Why don't we turn to that now?

Mr. RIVERS. Let's see if we can resolve it.

Mr. BLANDFORD. Section 233, on page 17, I think, is one of the important provisions added here to satisfy the subcommittee. That reads:

SEC. 233. Any participant in the system who is at least fifty years of age and has rendered twenty years of service, including service within the meaning of section 253, may, on his own application and with the consent of the Director, be retired from the Agency and receive benefits in accordance with the provisions of section 221—

then we added this language, and that is what Mr. Osmers suggested yesterday:

provided he has not less than 5 years' service with the Agency.

This is to preclude a man from the Department of Agriculture moving in and serving for a year. If this is acceptable to the subcommittee, this is what we spent 1 whole day on.

Mr. RIVERS. We spent more than 1 whole day.

Mr. HARDY. Yes.

Mr. RIVERS. Mr. Hardy, you were worried about that.

Mr. HARDY. Yes, it is all right.

Mr. OSMERS. Fine change.

Mr. RIVERS. Well, without objection we will accept that.

Mr. BLANDFORD. Section 234, if you will turn to page 18, subsection (c) reads:

The Director may, in his discretion, retire participants in grade GS-14 and above to promote the efficiency of the Agency.

This was the attrition-out for the GS-14's and above.

It so retired, they shall receive retirement benefits in accordance with the provisions of section 221, provided they have, in each case, not less than 5 years' service with the Agency.

Mr. RIVERS. Mr. Hardy is worried about swapping from one to the other. Mr. Hardy, let's hear from you.

Mr. HARDY. That is an improvement, but I am not sure that it meets the total objections that I had.

Mr. BLANDFORD. This does not solve one of Mr. Hardy's problems, unfortunately, this language. Because this language still would permit a man to serve for 1 year in foreign intelligence activities provided he had been 5 years with the Agency.

5888

I think what the subcommittee was talking about yesterday is that we wanted an individual who was going to get the benefit of this immediate annuity to have participated in the type of operation that qualified him for this retirement program. In other words, the 5 years in the Agency doesn't satisfy. It is 5 years in the Agency in the covered type of retirement. Isn't that what you had in mind, Mr. Hardy?

Mr. BATES. Right.

Mr. HARDY. Yes, that is part of it.

This permits an immediate annuity, regardless of age, and that is what this does, doesn't it?

Mr. BLANDFORD. Yes, sir.

General CARTER. Sorry, didn't hear that.

Mr. HARDY. Permit an immediate annuity regardless of age, where there may have been a total of only 5 years of Federal service, that is what could happen in this thing, and I just don't think—of course, as you point out, if he only has 5 years, it will only be 10 percent. It might run as high as 15 years of Federal service, and he might retire at age—he could at age 35 with 15 years Federal service, and he would be getting a pretty good annuity. That is, to me—I think it ought to have some age factor in there. I don't think he ought to get an immediate annuity unless he has attained some age. You might tie it to, if he has 15 years of service in this situation, why, I wouldn't fuss about retirement at age 50. But to take one of these people and put him in this kind of a job, keeping him in there for only 5 years, retire him on immediate annuity at a very young age, I just don't think it is right.

Mr. RIVERS. This isn't what the general told us on the first day or so of the hearing. He said that in all cases where you would have a specialized man whom you sought from public life, he would be much older than this.

Mr. HARDY. But not necessarily. If he does, then it wouldn't hurt anything to put an age limit in there.

Mr. RIVERS. I wouldn't think so, either.

General CARTER. There is no objection to putting an age limit in there. It would not inhibit our activities. I can't conceive of anyone being under, let's say, 40 years of age and coming within the criteria established here.

Mr. RIVERS. I wouldn't either.

Mr. HARDY. Right.

General CARTER. Just last year I released, from the Agency, 37 people who were in grades 14 and 15; not a single one of them was under 40 years of age.

Mr. HARDY. If that is the case, then 40 years wouldn't hurt you any. As a matter of fact, I would think that 40 years is too low an age to permit immediate retirement for any service ranging from 5 up to 19 years.

Mr. OSMERS. Mr. Chairman, would adding the requirement, "having attained the age 40," to the language, would that satisfy?

Mr. RIVERS. Not less than 40.

Mr. OSMERS. Not less than 40. Would that satisfy you?

Mr. HARDY. That would help, but I still say that is a little on the young side. Because here is a fellow, suppose he had a total of 19, if he has 20 years he can go out at age 50 anyhow, but he could get a

5889

total of 20 years military and Government service and come out at age 40

Mr. RIVERS. He can do that now as an enlisted man.

Mr. HARDY. As an enlisted man.

Mr. BLANDFORD. Why can't we solve this out by striking out 5 years and putting in 10 years, which will come close to the general's estimate as to about the earliest age this would apply to?

In other words, these people, in order to get to be GS-14's, would have to have almost a minimum of 10 years of service, wouldn't they?

General CARTER. Minimum of 10 or 15 years of service at the earliest; yes, sir.

Mr. BLANDFORD. Why not strike out 5 and put in 10 years, and leave it 10 years' service in the Agency; at least that give you—

Mr. HARDY. That would help it.

General CARTER. There are two problems that arise here, sir. This is an involuntary retirement; it is a selection-out at the discretion of the Director. It requires at least 5 years of service and it requires service of the type which makes him eligible for this retirement in the first place.

Mr. HARDY. I don't object to you selecting him out, I think you need to do that, but I do question the desirability or the propriety of having an annuity begin immediately at such a young age. You could give him a deferred annuity which he could pick up at age 40 or 50, regardless of his age, which I wouldn't object to, but to permit him to come out and take an immediate annuity regardless of his age, I just don't think it is good business.

Even if Foreign Service does have it, I don't think they ought to have it.

Mr. OSMERS. I want to go back again to what I mentioned before about carrying out the mission of the Agency.

Now, you may recall I said a few minutes ago I didn't want the Director burdened down with a lot of personnel decisions. And here again I think it is fair to ask General Carter whether changes in this language along the lines that have been suggested here, whether that will be a hindrance to a Director of CIA from time to time in carrying out his missions.

General CARTER. No, sir. The utilization of the term "Director" in the legislation I do not think would be—

Mr. OSMERS. I don't mean the term "Director." But I mean if we limit—as the committee seems to want to do—if we limit your authority to discharge people from the Agency or make it very undesirable from the standpoint of the employee discharged, do we prevent the Agency from performing its maximum duty?

General CARTER. Well, it is an additional inhibition, sir. I don't think it is a truly serious one. We have regulations in the Agency now that we would not normally take personnel on for a period of time as low as 5 years, if we could anticipate this, as a staff employee. We would hire them as a reserve officer or a contract employee.

So the 5 years is not a difficult limitation to live with. If it were extended, however, to 10 years, I do feel that it would inhibit the Director's authority to bring someone in, find out after 7 years, perhaps, that his skill was no longer required, that he was there in the Agency, we couldn't use him, it was time to involuntarily select him out; we would do this then and he would receive an annuity after 7 years, of

5890

14 percent of his high 5 salary. It is enough to get him reoriented; it is certainly not enough to give him any livelihood.

Mr. HARDY. Yes, but he might have had military service, he might have had some other Government service. Let me take one other tack and see if that is what it is. Now, on line 3, "if so retired, they shall, upon attaining age 50, receive retirement benefits in accordance with the provisions," and so forth.

That is right. As I understand it, you wouldn't have hardly any that you would select out before they were age 50, anyway. Did I understand you correctly?

Mr. OSMERS. Would you make that age 40, Mr. Hardy?

Mr. HARDY. No.

Mr. OSMERS. In view of the realistic experience which the Director has.

Mr. HARDY. He tells us that he would hardly have anybody that would attain grade 14 under age 50. Isn't that what you said?

General CARTER. Under age 40, sir. Very few would be GS-14's or higher under age 40.

Mr. HARDY. I would compromise to age 45, if I had to. I think 50 is young enough.

General CARTER. For GS-14.

Mr. HARDY. To be retired, to be retired.

General CARTER. Well, this would mean, then, sir, that if we had a GS-14 who was no longer of any use to us—

Mr. HARDY. You could retire him, but his annuity would be deferred until he attained that age.

Mr. RIVERS. It would be deferred until he gets to this age he is talking about.

General CARTER. Now, we are introducing a new facet of it.

Mr. HARDY. It did that deliberately.

Mr. RIVERS. He has.

Mr. HARDY. That is why I did that.

Mr. RIVERS. It might be good to put 45 in there.

Mr. HARDY. You can retire him at any time, but his annuity doesn't begin until he attains age 45.

General CARTER. Then we should have something to carry him along for the 3 or 4 years it is going to perhaps take him to get reoriented. This is a very small amount of money that we are talking about, which will, I hope, help him to get readjusted. He has put in 7 years, let's say, of the most critical type of work which he has to have in order to be justified for this program.

Mr. HARDY. I asked yesterday for a breakdown on these people that you selected out last year.

General CARTER. I have that right here, sir.

Mr. HARDY. And I think that might shed a little light on it.

General CARTER. We identified as potentially surplus over the past 2 years 191 people within the Agency. After review by me we retained 12 in their same career service. We were able to reassign to other tasks in the Agency 44, which left 125, which were to be separated from the Agency. Of these we were able to get 26 reemployed in other Government agencies, 20 in private industry and teaching, and the remaining 64 left the Agency, they did not need our employment help, and I do not have the statistics on how they have been reemployed.

5891

Mr. HARDY. I was interested in the ages of the people.

General CARTER. All right, sir. There were 37 in grades GS-14 and 15; 9 of these were 60 years of age or over; 19 were between 50 and 59; 9 were between 40 and 49; there was none under age 40. This is grades 14 and 15.

Of the 88 in grades 13 and below, 10 were 60 or over; 19 were between 50 and 59; 39 were between 40 and 49; 20 were between 30 and 40.

Mr. HARDY. We are only concerned in this point with those grades 14 and 15.

General CARTER. Yes, sir.

Mr. HARDY. Now, you had 64 that left the Agency.

General CARTER. Under this selection-out procedure, which it was, there were a total of 125 separated from the Agency as surplus.

Mr. HARDY. 125?

General CARTER. Yes, sir.

Mr. RIVERS. But under GS-14—

General CARTER. Of those 125, 37 were GS-14's and 15's.

Mr. BLANDFORD. Did any of your GS-14's have less than 10 years' service with the Agency?

General CARTER. Three had less than 10 years of service.

Mr. HARDY. There would be only nine of those that were separated that would be affected by putting a 50-year limitation on here. Now, you didn't have a breakdown at age 45.

Mr. RIVERS. 37 between 40 and 49.

Mr. HARDY. No. You had nine.

General CARTER. We had nine between 40 and 49.

Mr. RIVERS. That is right.

Mr. HARDY. Now, you don't have their ages there, do you, and their length of service?

Mr. BLANDFORD. I think the GS-14's, I still think you are on safe ground if you use 10 years of service rather than put in an age under 50, because if you put in under age 50 in this bill it is going to stand out.

Mr. HARDY. You have got no age.

Mr. BLANDFORD. I know that. But if you put 40 everybody is going to assume that 40 is the age.

Mr. RIVERS. Yes.

Mr. BLANDFORD. That is the trouble with 40.

Mr. RIVERS. This GS-14 has passed 40.

Mr. OSMERS. Mr. Chairman, for purposes of clarification, where we refer here to not less than 5 years of service in the Agency, on line 5, are we referring to 5 years of qualifying service?

Mr. BLANDFORD. No, that is the trouble. This language, and I think it has to be modified, you could either have 10 years of service with the Agency or a minimum of 5 years of qualifying service. I suggested 5 years of qualifying service because I can certainly visualize many situations arising, not many but some situations arising in which a person is being used for a specific purpose as a GS-14 or above, and his usefulness may come to an end. I can see that happening in this business.

I think we have got to remember that we are trying to write a bill here for a very particular group of people. This is not ordinary employment. These are types of people who may have techniques

5892

or skills where they burn out very quickly, or where their usefulness for many reasons might come to an end for reasons we cannot even think of now. But I think in order to qualify a person for this immediate annuity, which isn't a great deal of money, we ought to at least require a minimum of 5 years of service in this type of operation.

Mr. HARDY. He is not likely to be a GS-14.

Mr. BLANDFORD. Yes, he could be.

Mr. OSMERS. Isn't it possible, Mr. Chairman, to define that service here?

Mr. BLANDFORD. I think we could say 5 years of service.

Mr. HOUTSON. Five years of qualifying service.

Mr. BLANDFORD. Not less than 5 years of qualifying service, I would be perfectly content with that language.

Mr. RIVERS. And a category the Director has defined as critical or whatever word you want to attach to it.

Mr. OSMERS. Mr. Chairman, the one error that I think some of us are inclined to make is that we are comparing the men who would be prematurely retired under this law with clerk-typists, with GS-9's, management assistants, and so on. A man becomes completely removed, often from American life, and has to start all over again. And I want to lean in the way of giving the Director the ability to let him go when he wants to let him go when he has ceased his usefulness, and also to give the man some immediate income, if we can.

Mr. BLANDFORD. I think if we use the words "not less than 5 years of qualifying service," that we will solve it.

Mr. RIVERS. How does that sound?

General CARTER. That is fine, sir.

Mr. HARDY. I am still not sure that you need this. I want to give them all reasonable assistance in getting qualified people, but I still cannot see how you are going to have very many people that are going to be adversely affected if you had a deferred annuity here until they attained age 50. Now, actually, you only had 9 people that were affected in this bunch that you separated out, out of a total of 189 that were surplus.

Mr. BLANDFORD. Can I just be the devil's advocate here for a moment?

Mr. HARDY. I am the devil's advocate.

Mr. BLANDFORD. Let me give you an illustration, what you would really then do, you would compel the CIA to keep this man employed until he was age 50 even though he was not useful to the Agency. It would cost you \$16,000 a year to keep this man on active duty as opposed to \$1,800 for retirement. That is what you would be doing.

Mr. HELMS. May I give you an actual case of an individual who is a GS-14 today, and he is aged 39. He has had 12 years of covered service with the Agency in various parts of the world. He has had 19½ years of Federal service, which includes his wartime service, and so on. If we desired to retire this man now, with 12 years of covered service, 39 years old, and all the other factors, then he would have to wait this additional amount of time before he would qualify if we put an actual age factor in here, when in point of fact it seems to me he has met every criteria.

Mr. RIVERS. And he is burned out.

Mr. HARDY. Not necessarily.

5893

If you put a total of 10 years in the age and 5 years of covered service, I will go along with it. I think we can live with that.

Mr. HUDDLESTON. I second that.

Mr. BLANDFORD. Then how about this, provided they have in each case not less than 5 years of qualifying service with the Agency and 10 years of total service.

Mr. HUDDLESTON. Total service.

Mr. RIVERS. Total service. How does that sound? That would take 99 percent of the cases.

General CARTER. It will take care of the cases that we separated last year, sir. It seems to me that—

Mr. BLANDFORD. But this isn't retroactive, General.

General CARTER. No.

Mr. BLANDFORD. Granted there may be one or two cases where you are going to have to keep them on the payroll another year in order for them to qualify, that is what you are being forced to do.

Mr. RIVERS. We have explored that area.

General CARTER. If you keep another man on the payroll at grade GS-14 or GS-15 for a year, this is approximately 10 years of a deferred annuity, of an annuity, rather, at the going rate of 5 years' service.

Mr. RIVERS. You have to have some cut off.

General CARTER. And then you are giving him an annuity.

Mr. BLANDFORD. That is right, an annuity based upon service which he has rendered.

General CARTER. And carry him on.

Mr. RIVERS. When you put these cutoff periods, these qualifications, you always run into something like that.

General CARTER. Yes, sir; and you are taking away from the Director, I think, the discretion which is written into the act to require him—

Mr. HARDY. I am willing to give the Director a whole lot of discretion, but I am not willing to give all the discretion being exercised in the executive branch today. I am not talking about your Agency. I think the executive branch is going crazy. We have a lot of discretion being exercised over there by people not as competent as you are in your job. I think the Congress has to retain some jurisdiction.

Mr. BLANDFORD. Is it the pleasure of the committee to approve this?

Mr. RIVERS. Have we agreed on that provision?

Mr. BLANDFORD. Let me read it.

Provided they have in each case not less than 5 years of qualifying service with the Agency and 10 years of total service.

Mr. HUDDLESTON. That needs to be 10 years of total service with the Agency. It needs to be spelled out.

Mr. BLANDFORD. I think we will have to rephrase this a little bit. What we are talking about is 5 years of qualifying service, and 10 years of service with the Agency. That is what we are talking about.

Mr. OSMERS. Mr. Chairman, I would certainly not make an issue out of it on the floor at all, I don't believe, but I am opposed to putting in the 10 years of service with the Agency because we place a limitation on the Director. We are not talking about any money, we are not talking—if I may say so, I don't feel we are talking about executive depart-

5894

ment discretion at all. I think what we are doing is hobbling, we are hobbling an important official who has a very unusual responsibility by placing numbers that have no financial meaning at all to the Government.

Mr. BLANDFORD. We obviously cannot finish this.

Mr. RIVERS. I don't think we had better try to finish it now because we haven't got this thing ironed out. We will try to find out a time we can meet and let you know.

General CARTER. Mr. Chairman, we are prepared to stay here at your wish: as you know we are most anxious to get this legislation on the floor of the House.

Mr. RIVERS. Why don't we recess, and we will try to figure out a time we can meet with you, and maybe we can meet earlier than we thought, General.

In the meantime we can see what we have.

(Whereupon, at 12:20 p.m., the subcommittee adjourned.)

HOUSE OF REPRESENTATIVES,
COMMITTEE ON ARMED SERVICES,
SUBCOMMITTEE No. 1,

Washington, D.C., Wednesday, September 11, 1963.

The subcommittee met in executive session at 10:43 a.m., Hon. L. Mendel Rivers, chairman of the subcommittee, presiding.

Mr. RIVERS. General Carter, we welcome you back after a brief respite.

I knew when we stopped that this holiday would catch us.

General CARTER. Yes, sir.

Mr. RIVERS. The subcommittee certainly wants to dispose of this matter as quickly as we can. That is what we are meeting for this morning.

Mr. BLANDFORD. Mr. Chairman, may I suggest that General Carter at this point go through the bill from the very beginning and show the changes that have been made as the result of the subcommittee's prior actions, and then when we get to the section where we stopped we can resume the explanation of what the bill does.

You will recall that we had several reservations about certain features of it?

Mr. RIVERS. What was the date of our last meeting, Mr. Blandford?

Mr. BLANDFORD. It was July 25.

Mr. RIVERS. Why don't we follow that course here?

I believe it would be more orderly for the record.

General CARTER. Yes, sir: we would be very happy, Mr. Chairman and members of the subcommittee, to continue the discussion of this bill which of course we regard as most important. I have with me today Mr. John Warner, our legislative counsel.

Mr. RIVERS. Glad to have you back. We missed you before.

General CARTER. Mr. Emmett D. Echols, our Director of Personnel, Mr. Larry Houston, our General Counsel, and Mr. William Woodyear, who is a legislative assistant to the Director of Personnel at the Department of State, who has been with us in our other hearings.

Mr. RIVERS. He is very helpful to us.

5895

STATEMENT OF GEN. MARSHALL S. CARTER, DEPUTY DIRECTOR OF CENTRAL INTELLIGENCE; ACCOMPANIED BY LAWRENCE R. HOUSTON, GENERAL COUNSEL; JOHN S. WARNER, LEGISLATIVE COUNSEL; EMMETT D. ECHOLS, DIRECTOR OF PERSONNEL; JOSEPH G. O'NEILL, JR., ASSISTANT LEGISLATIVE COUNSEL; MISS BERTHA H. BOND, EXECUTIVE ASSISTANT TO DIRECTOR OF PERSONNEL; PETER J. CONNELL, OFFICE OF LEGISLATIVE COUNSEL; AND WILLIAM WOODYEAR, LEGISLATIVE ASSISTANT TO DIRECTOR OF PERSONNEL, DEPARTMENT OF STATE

General CARTER. Sir, in the books before you, at tab I under the marker "revised bill" there is a clean draft of the bill that we were working on in August. Included in this clean draft are the various amendments on which the subcommittee had expressed its will.

Now if it suits the will of the subcommittee I would propose that Mr. Warner, our legislative counsel, run through the bill, pointing out the amendments and these amendments are italicized or are bracketed in black brackets.

Thereafter we would propose to continue with a reading and review of the bill beginning at section 235 which is where we had discontinued in July.

Mr. RIVERS. All right, sir; let's go ahead.

(The documents are as follows:)

[H.R. 7216, 88th Cong., 1st sess.]

A BILL To provide for the establishment and maintenance of a Central Intelligence Agency Retirement and Disability System for a limited number of employees and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—SHORT TITLE AND DEFINITIONS

PART A—SHORT TITLE

SEC. 101. Titles I to III inclusive of this Act may be cited as the "Central Intelligence Agency Retirement Act of 1963".

PART B—DEFINITIONS

SEC. 111. When used in this Act, the term—

- (1) "Agency" means the Central Intelligence Agency; and
- (2) "Director" means the Director of Central Intelligence or the Deputy Director of Central Intelligence.

TITLE II—THE CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM

PART A—ESTABLISHMENT OF SYSTEM

RULES AND REGULATIONS

SEC. 201. (a) The Director may prescribe rules and regulations for the establishment and maintenance of a Central Intelligence Agency retirement and Disability system for a limited number of employees, referred to hereafter as the system.

(b) The Director shall administer the system in accordance with such rules and regulations and with the principles established by this Act.

99-066-63—No. 26—8

5896
THRU
5915

7 continuation
OF
HR 7216

TEXT NOT
INCLUDED

5916

TITLE III—INTERNAL REVENUE CODE AMENDMENT

Paragraph (4) of section 104(a) of the Internal Revenue Code of 1954, as amended (26 U.S.C. 104(a)(4)) (relating to the exclusion from gross income of compensation for injuries and sickness) is hereby amended to read as follows:

"(4) amounts received as a pension, annuity, or similar allowance for personal injuries or sickness resulting from active service in the armed forces of any country or in the Coast and Geodetic Survey or the Public Health Service, or as a disability annuity payable under the provisions of section 831 of the Foreign Service Act of 1946, as amended (22 U.S.C. 1081, 60 Stat. 1021), or as a disability annuity payable under the provisions of section 231 of the Central Intelligence Agency Retirement Act of 1963."

Explanation.—This section amends paragraph 4 of section 104(a) of the Internal Revenue Code of 1954 to exempt disability annuities under title II of this act from Federal income tax. This is the same exemption already accorded similar annuities for participants under the Foreign Service disability and retirement system and for members of the uniformed services. (This section was favorably reviewed by the Department of Treasury in processing within the executive branch.)

Mr. WARNER. Page 1, line 5, this is a new title to the bill. I don't believe it needs any explanation. At line 10 we have the inclusion of the Deputy Director within the definition of director to permit General Carter to make the determinations required under the act.

Mr. HARDY. Is that the normal procedure to write that into the statute?

Isn't that normally accomplished by delegation?

Mr. WARNER. Well, we felt that these actions are of sufficient importance that it ought to be abundantly clear. It does vary—sometimes it is in statutes; sometimes not. We thought it would be better to make it clear that the Deputy Director is fully authorized to act for Director in these situations.

Mr. HARDY. I think that is probably all right, but every now and then when we get into situations where there are circumstances as important as these, it has generally been the thinking that the ultimate responsibility ought to be placed exclusively on the top administrative officer, which in this case would be the Director. I don't know whether—

Mr. BATES. And he delegates it if he wants to?

Mr. HARDY. Yes. Then in the event you have got a real come-back—

Mr. RIVERS. I can't conceive how there would be any difference of opinion between the two because the President would certainly remove him if there were any shenanigans between the two of them. I don't see how it can hurt.

Mr. BLANDFORD. Does the Foreign Service Act give this authority to the Secretary of State and does he delegate it or does it—

Mr. WOODYEAR. It is given to the Secretary of State and delegated to the personnel director.

Mr. BLANDFORD. You have never had any problem then, insofar as interpretations are concerned, that a delegated authority affecting a retirement has been questioned, I mean to your knowledge?

Mr. WOODYEAR. To my knowledge we have never had any problem with it.

Mr. HARDY. I just have a doubt in my mind that we ought to have a departure from what is normal practice in this. That is all.

Mr. BLANDFORD. Nothing actually is added or detracted from it, Mr. Hardy, if it were deleted.

5917

Mr. HARDY. That was my thinking.

Mr. BENNETT. I am inclined to delete it.

Mr. BATES. I so move.

Mr. RIVERS. Without objection. Go ahead.

Mr. BATES. I did have the same question that Mr. Hardy had. But also is this the language we finally decided on: "Central Intelligence Agency Retirement Act of 1963"?

Is that how we finally left it, even though it is only partial?

Mr. RIVERS. What we decided to do is just take up roughly section 302 or what was it?

Mr. BLANDFORD. Titles 2 and 3.

Mr. WARNER. Yes. You had expressed the will to take out all of these other provisions and merely deal with retirement, so this is a retirement act.

Mr. RIVERS. That is what we decided.

Mr. BATES. Except it is not in as general a nature as the title seems to suggest.

Mr. BLANDFORD. Couldn't we amend this?

I think we missed it some place here, what we are really talking about—

Mr. BATES. Special.

Mr. BLANDFORD. More than that, limited.

We ought to call it the Central Intelligence Agency Limited Retirement Act of 1963 or the CIA Limited Retirement Act or something of that nature.

Mr. WARNER. This had been discussed at the prior hearing and the limited point is in the statement of the purpose and it is also in section 201 which we have not come to yet.

Mr. BENNETT. It is the only retirement act for the CIA of 1963, so it is accurate.

Mr. HARDY. But it does not affect all of CIA's employees.

Mr. BENNETT. But it does not purport to.

Mr. RIVERS. Why don't you make that consistent, Mr. Blandford?

Mr. BATES. He says 1963, I think we are quibbling a little bit.

Mr. RIVERS. I think we may be.

Mr. BENNETT. Just because you have a Central Intelligence Act of 1963 does not mean it has to apply to everything in the whole Agency.

Mr. RIVERS. There are some long-term employees that are suffering and these are the ones we want to be sure of.

Mr. BLANDFORD. Why don't we put the word "restricted" before the word "retirement"?

"The Central Intelligence Agency Restricted Retirement Act of 1963." to have the title at least carry with it the idea that it is restricted in its application.

Mr. HARDY. I believe something of that kind would be helpful.

Mr. BLANDFORD. Would there be any objection to that?

General CARTER. No.

Mr. WARNER. No.

Mr. RIVERS. I don't see any. We may be quibbling a little bit. Like Mr. Bennett said there would be no other.

Mr. BENNETT. Why don't you say "for certain employees," that is more like it.

5918

Mr. BLANDFORD. You could put that in there. "For certain employees" would even be more descriptive of what you are doing.

Mr. RIVERS. I think so, too.

Mr. BLANDFORD. Central Intelligence Agency Act of 1963 for certain employees.

Mr. BENNETT. That shows it is not for all employees.

Mr. BLANDFORD. All right.

Mr. RIVERS. All right; go ahead.

Mr. STRATTON. Mr. Chairman, I am just a little confused here. What does this document represent again? I have before me the printed text of H.R. 7216. I have the mimeographed document. You have underlined certain items but the differences between this and the printed version of H.R. 7216 are more than what you have underlined.

Mr. BLANDFORD. We agreed at the last meeting to eliminate practically all of title I which carried with it a lot more features. In other words, there was a question in there of permitting the Agency to receive gifts—

Mr. STRATTON. I am just trying to find out what this printed document represents.

General CARTER explained it a moment ago, but I don't follow his explanation.

General CARTER. It is a clean draft, sir, of the bill that we were working on back in July with amendments indicating the will of the subcommittee underlined in blue.

Mr. STRATTON. Now there are amendments which have not been underlined. Why have you underlined some changes and not others?

General CARTER. Only because of the omission of title I which had a number of administrative niceties that we had hoped to clean up in this bill; but it seemed more appropriate to delete them.

Mr. STRATTON. I am just a little confused, the very first line, for example, "to provide for the establishment and maintenance of a Central Intelligence Agency retirement disability system" is different from the title in H.R. 7216, and yet there was not any underlining there.

I wonder whether there is some particular significance in those changes which you have made which you have underlined and those changes which you have made which you have not underlined.

Mr. BLANDFORD. The title actually should have been underlined.

Mr. STRATTON. It seems to me there are a lot of things that should have been underlined.

The word "inclusive," for example, if we are going to be accurate and if we are going to indicate where there are changes, on line 5 the words "titles 1 to 3 inclusive" should have been underlined.

Mr. BLANDFORD. No, that was not the approach we took to this, because it would have taken quite a project to go through the niceties of that. The subcommittee—

Mr. STRATTON. I am just trying to find out what it is.

Mr. BLANDFORD. The subcommittee eliminated title I; practically the first day, they decided not to take up all of these extraneous matters and confine ourselves strictly to a retirement bill.

So what we have here, as a result of the subcommittee's desires, is a bill strictly confined to retirement. We have to change the title, and this will be introduced as a clean bill; it won't be 7216 amended; this will actually be introduced as a new bill.

5019

Mr. STRATTON. In other words, this underlining is not intended to represent all changes?

Mr. BLANDFORD. No.

Mr. STRATTON. But just those—

Mr. BLANDFORD. Changes in the retirement features that we have agreed upon, tentatively.

Mr. WARNER. That is correct.

Mr. RIVERS. This is our working apparatus to fashion a new retirement bill, principally a retirement bill for the CIA.

Mr. BLANDFORD. That is it.

Mr. RIVERS. The reason it is so imperative, we have so many employees, with many years, who are affected, and we thought that rather than get bogged down with a lot of things that do not touch the thing that is so imperative and so important in the Agency, we would limit our deliberations to the retirement.

Mr. BENNETT. We want to pass a bill before they retire, too.

Mr. RIVERS. We hope to.

Now let's see if we can go ahead. Does that answer your question?

Mr. STRATTON. In other words—yes.

In other words, for comparison, we begin on page 10 of the printed text.

Mr. BLANDFORD. Just about. Actually you can almost take 7216 and throw it away.

Mr. RIVERS. This is just a vehicle we are going to work on here.

Mr. WARNER. Actually, Mr. Stratton, if you will recall, once the subcommittee expressed its will of not dealing with these other administrative changes we brought you a new bill at that point, and really it is from that point that we come to this one.

That second step is what we worked with before the subcommittee, in fact.

Mr. RIVERS. It may be that we may not take this entire bill that they have given us without changing one or two sentences; that is conceivable.

Mr. WARNER. We had thought it might be, sir.

Mr. RIVERS. So we may make a few changes.

But this is our vehicle we are going to work with. Where are we now?

Mr. WARNER. Page 2, line 7, the insertion of "for a limited number of employees." I think this point has been discussed already.

Beginning at line 11, through line 19, we have put in a section which, in effect, provides that the decisions or determinations of the director required under this law would not be subject to judicial review. There are several reasons for this. The principal one is security, because the very people who would be participants in this system would have engaged in service which would have many security aspects involved to it and to permit them to take their cases to court would destroy our security.

Now there is ample legislative precedent for this: we find it in the veterans' benefits sections, we even find it in the civil service system in part. So I worked with Mr. Blandford on this, and we propose it for your consideration.

Mr. HARDY. Is this the only way we can avoid the—that we can solve the problems that you want to solve?

5920

I frankly am getting more and more squeamish about giving this kind of authority to executive agencies—any executive agency.

Mr. WARNER. We searched diligently, Mr. Hardy. I don't know how else to accomplish it.

Now, Mr. Blandford, do you have any?

Mr. BLANDFORD. No. What we are going to run into, and this is what we are afraid of, you get some disgruntled employee at some future date—

Mr. RIVERS. The FBI does not have it.

Mr. BLANDFORD. The FBI does not have basically the same problems that we would have of disclosure of what this man did. Let's take a man who claims that he is entitled to be included in this because of certain work he has done, and perhaps he has done this work in the United States and perhaps he has overglorified, in his own mind, the work he has done.

It would be harmful to have this sort of thing disclosed in the newspapers, because as soon as it is filed in the complaint, that is what is going to happen.

Mr. HARDY. I appreciate the problem but, I declare, this business of giving the Director final authority makes him a little god down there—which he already is. I am not sure that we have not gone too far in that direction, not just in this case but some others.

Mr. LONG. Is there anything to prevent such a man from writing a magazine article?

Mr. BLANDFORD. Yes; we have laws that cover that, very definitely. When a man is employed by the CIA he signs a statement to that effect.

Mr. RIVERS. He understands all of this.

General CARTER. Yes.

Mr. WARNER. Yes. It is the price of working for the Agency.

Mr. BLANDFORD. They are all going into this with their eyes wide open that this is an agency that has extraordinary control over them.

Mr. Hardy's point, though, is of course one that Mr. Warner and I discussed. I know what is in Mr. Hardy's mind: that is, do you have to go this far to preserve the integrity? Actually it is the only solution I could see.

Mr. BENNETT. It is the only one I can see.

Mr. HARDY. It bothers me. Maybe there is no other solution to it. But it bothers me the amount of arbitrary authority we are giving to this Agency.

Mr. BLANDFORD. It is there, but the Director is the one who is going to decide the fate of these people anyway.

Mr. HUDDLESTON. In that instance that Mr. Blandford mentioned, the Espionage Act would prevent him from filing a suit; would it not?

Mr. BLANDFORD. I don't think so.

Mr. HUDDLESTON. Filing a suit and spelling out specifically his complaint?

Mr. BLANDFORD. He could file the suit and then he could also say that because of that he was being precluded from bringing his suit properly and ask permission of the court to give him permission to file and I don't know whether the court can handle it in confidence.

As a matter of fact, I doubt whether they could. It would become a matter of public record. You have to go through some real compli-

5921

cated legal shenanigans in order to get the evidence before the court without having it part of the public record. That is what bothered us.

Mr. WARNER. A very difficult problem.

Mr. RIVERS. Go ahead.

Mr. WARNER. Right, sir.

Page 3, beginning at line 4, this again is a provision which the subcommittee spoke to, of permitting a participant who has fulfilled 15 years of service and whose career at the time was adjudged by the Director still to be qualifying, that he may elect to remain in.

At some point in his career he knows where he is.

Mr. BLANDFORD. We ought to make it clear because Mr. Hardy would raise the point here I am sure, that this decision that this man makes to elect to be continued in this retirement system is inviolate from his viewpoint. This is not something that you then turn around to section 201(c) and it can be set aside by the Director.

Mr. WARNER. No.

Mr. BLANDFORD. Let's make that clear in the record, that once this man has had 15 years of covered service, this is to protect the man which is what we discussed, this cannot be offset by section 201(c).

Let's have that strictly understood.

Mr. WARNER. Yes, absolutely.

Mr. HARDY. That may be understood by us—

Mr. RIVERS. This, at that point, then, is a vested right.

Mr. BLANDFORD. Vested right. That is what you wanted and this is the way we vested it.

Mr. HARDY. This may be understood by us but I don't know where you would be if you had a conflict between these two sections, where the man contended that he was entitled to it because of his vested interest under this section.

Mr. BLANDFORD. The two would have to be read together, I think. Here we are vesting in the individual after 15 years of covered service the right to remain in it.

Mr. HARDY. Under the other section if the Director found otherwise, it might be contended that he could not go to court to have it reviewed.

Mr. BLANDFORD. I don't think so at this point because of the way this language is written. The other one is a determination and here the determination is taken from—

Mr. WARNER. It is not the Director's determination at this point, it is the individual's election.

Mr. BLANDFORD. That is right.

Mr. HARDY. Well, the only question in my mind is whether it should be spelled out that the provision of that 201(c) is not applicable.

Mr. BLANDFORD. We could add, if you wish, "By the agency notwithstanding the provisions of section 201(c)," if that would clarify it.

Mr. RIVERS. You could do that.

Mr. WARNER. I think we could do that.

Mr. RIVERS. Easily.

Would that be better?

Mr. HARDY. I just would like to be sure that we don't have a conflict.

Mr. RIVERS. You have to read them together.

Mr. BLANDFORD. All right; notwithstanding the provisions of section 201(c).

5922

Mr. RIVERS. They are to be read together?

Mr. WARNER. Yes.

Mr. STRATTON. Does this mean that the question of participation is something that can then be taken to court; is that what we are saying?

Mr. RIVERS. Oh, no.

Mr. STRATTON. 201(c) refers to the fact that it is not subject to review.

Mr. BLANDFORD. He could then take to court the question of his election to continue as a participant.

Mr. RIVERS. In the system?

Mr. HARDY. That would be the only thing.

Mr. RIVERS. Yes; that would be the only thing.

Mr. BLANDFORD. This would in effect prevent the Director stopping him from electing to participate, if he elects to participate.

Mr. RIVERS. I think so.

Mr. WARNER. I would like to suggest if I might that we only agree on the principle here.

Let's look at this language. I am very concerned about adopting language very quickly, because I think Mr. Stratton has made a good point, it might conceivably be that this "notwithstanding" could apply to the "adjudged by the Director to be qualified."

This is precisely what we don't want to go into court. I see Mr. Hardy's point, that we don't want this election to revert back to the Director's discretion.

Mr. HARDY. I think you are probably——

Mr. RIVERS. Well, he is presumed to have been qualified.

Mr. HARDY. I think you probably could get better language than the reference back to 201(c).

Mr. WARNER. Yes.

Mr. HARDY. I think you probably could put in language which would say that the Director shall not abridge this right.

Mr. WARNER. That is the point I was raising. Let Mr. Blandford and me work on the language to satisfy your point.

Mr. HARDY. All right.

Mr. RIVERS. That is right. Because if he has 15 years, he is in.

Mr. WARNER. He is in, period.

Mr. RIVERS. You can work on that. What is next?

Mr. WARNER. Line 17 on the same page and line 20, we inserted the word "who". It is merely clarifying.

Mr. RIVERS. We discussed that.

Mr. BATES. I don't recall that.

Mr. RIVERS. We discussed it at length.

Mr. BATES. I remember we talked about it.

Mr. RIVERS. Can you refresh Mr. Bates, Mr. Blandford?

Mr. BLANDFORD. I am trying to think.

Mr. RIVERS. We had a long discussion about——

Mr. WARNER. Seven or eight pages, that it was not quite clear what the antecedents were.

Mr. RIVERS. Mr. Hardy got into that discussion.

Mr. HARDY. I don't remember it.

Mr. BLANDFORD. We wanted to make sure that the widow——

Mr. BATES. There is no need——

5923

Mr. BLANDFORD. I think what we had in mind was that we did not want to permit—in other words, we did not want a woman, where there wasn't a marriage, to participate and we wanted to make sure that the widow referred back to a marriage.

Mr. WARNER. Yes.

Mr. BATES. What you have done then in 15 and 16 you talked about a marriage.

Mr. BLANDFORD. But the "who" refers back to the widow.

Mr. BATES. It says "or."

Mr. BLANDFORD. "Or who." The "who" is the widow.

Mr. BATES. It still has to be a marriage which was consummated 2 years before this.

Mr. BLANDFORD. No. Because widow means the surviving wife of a participant, married to such participant for at least 2 years.

Mr. BATES. It says "such marriage," which refers back to 2 years before.

Mr. BLANDFORD. The question was without the word "who," whether the words "or is the issue by such marriage."

Mr. WARNER. Other than a wife?

Mr. BLANDFORD. The antecedent is still the participant.

Mr. BATES. I don't see any need for it at all.

Mr. BENNETT. I don't think we change anything when we put that in.

Mr. BATES. Strike the whole line.

Mr. BENNETT. Why strike the whole line?

Mr. BATES. It does not mean a thing. What does it mean?

Mr. BENNETT. What does it mean? It means—let's look at it grammatically.

"Widow" means the surviving wife of a participant who was married to such participant for at least 2 years immediately preceding his—

Mr. RIVERS. We ought to strike that out.

Mr. BENNETT. "Or is the mother"—

Mr. WARNER. "—of issue by such marriage."

In other words, in less than a 2-year period.

Mr. BENNETT. That is correct.

Mr. BATES. Wait a moment. That is my point. You talk about a marriage which precedes the death by 2 years.

Mr. LONG. But if she is a mother it could be less than 2 years.

Mr. BATES. But it says "such marriage." "Such marriage" refers back to the situation on 15 and 16, it says—

Mr. RIVERS. You fellows are getting into sentence construction now.

Mr. BATES. No.

Mr. RIVERS. I thought I left those things.

Mr. BATES. When you are talking about "such marriage" you must be referring to the marriage which was consummated 2 years before the death.

Mr. RIVERS. Mr. Blandford, you are the counsel; what is your suggestion?

Mr. BLANDFORD. I had forgotten frankly what the issue was about. But it seemed to me that the question was something dealing with whether a person could qualify here who has no relationship to being a widow.

5924

Mr. BATES. I thought I was the only one that forgot about it.

Mr. BLANDFORD. Where are the transcripts?

Mr. STRATTON. Mr. Chairman, if we want to be accurate here I am afraid that the "who" refers to participant or could be interpreted as referring to participant rather than to wife. So then you get into more trouble.

Mr. BATES. If you talk about such marriage you are talking about the marriage consummated 2 years before.

Mr. STRATTON. I think Mr. Bates is correct on that one, too.

Mr. WARNER. Maybe you have a point, Mr. Bates.

How about changing that by "marriage to the participant"?

Mr. BATES. I don't care what you change it to, as long as you don't refer to a marriage 2 years before it you don't mean that.

Mr. WARNER. "Marriage to the participant," that is your point?

Mr. BATES. Yes, do you see that?

Mr. BLANDFORD. No. "Two years immediately preceding his death or is the mother of issue by marriage to such participant," or "is the mother of issue by marriage to the participant."

Mr. WARNER. The participant.

Mr. BLANDFORD. All right.

Mr. HARDY. That I believe takes care of it.

Mr. BATES. All right, they can work it out.

Mr. RIVERS. You all work that thing out so it means what you think it means.

Mr. BLANDFORD. I think we have it now.

Mr. RIVERS. We would like to get this bill reported out some time this session.

Mr. HARDY. You have to do the same thing on line 20.

Mr. WARNER. Yes, strike it.

Now, page 6 beginning at line 12, this was a problem we discussed and the question was of the designation of a beneficiary and the subcommittee felt that the civil service provisions were a little more precise in requiring insurable interest in the beneficiary.

Mr. RIVERS. That is right; I remember that.

Mr. WARNER. Therefore we have picked up, beginning at line 12 from the Civil Service.

Mr. RIVERS. Do you remember that one?

Mr. BLANDFORD. Yes, I do remember that one.

Mr. RIVERS. All right.

What is the next one?

Mr. WARNER. Page 7, line 22. This was—

Mr. RIVERS. We have just made this consistent with the Civil Service Act.

Mr. WARNER. That is correct, sir.

We have changed the word "physical" to read "medical" so that it be abundantly clear that it would include other than purely physical examination.

Mr. LONG. How come that is not underlined in my book?

Mr. BLANDFORD. In mine either.

Mr. LONG. Just the word "medical."

Mr. WARNER. Yes.

Mr. STRATTON. Where is that, line 22 on page 7?

5925

Mr. WARNER. Twenty-two, the word "medical" is substituted for the word "physical," and in the title, too.

Mr. RIVERS. We are doing pretty well now.

Mr. WARNER. Page 12 beginning with line 16, the proviso, "voluntary retirement" shall have had not less than 5 years of service with the agency.

Now again this was discussed by the subcommittee and I believe this is consistent.

Mr. RIVERS. That is right. That is where you took these people out of industry who had these great records but he had to be there 5 years—

Mr. WARNER. That is right, sir.

Page 13, beginning at line 14, a proviso that has been added, that in order to get the benefits of section 221, the involuntary retirement, they should have not less than 5 years of qualifying service and a total of 10 years of service. This was the subcommittee's suggestion and just to make it abundantly clear we have continued on, that in the event he does not have these minimum periods of service—

Mr. RIVERS. It has to be at least a GS-13.

Mr. BLANDFORD. Let me go back, Mr. Warner, one moment to page 12.

Mr. WARNER. Yes.

Mr. BLANDFORD. Did you want to have this not less than 5 years of service with the agency or 5 years of covered service?

Mr. LONG. You are using "covered" in the same sense as "qualifying."

Mr. BLANDFORD. Qualifying service.

In other words, the type of service that this is aimed at.

Mr. WARNER. The record shows as I recall "service with the agency."

Mr. HARDY. You have already got a requirement that he have 20 years' service.

Mr. BLANDFORD. Let me give an example.

A man works in the Post Office for 15 years. He transfers to the CIA, and he serves with the CIA for 4 years and 11 months. He then goes into covered employment.

Can he then retire under this special provision because he served for a month in covered service?

And he can under that language.

Is that what you want?

Mr. HARDY. No, I don't think so.

General CARTER. If the Director qualifies him. This would be at the discretion of the Director under this language and I cannot conceive of a Director so qualifying.

Mr. BLANDFORD. My recollection is we were talking about covered service.

Mr. HORTON. That was in connection with the covered service. On this one, I am not saying we cannot change it, but the discussion went to 5 years' service with the Agency. I think Mr. Hardy was raising the point of someone coming over and having 1 year's service and all the rest of it in Post Office and so forth, and we put him in covered service, so we agreed to say 5 years' service with the Agency.

Mr. BLANDFORD. I would feel better for the purposes of explaining this bill to the full committee if we used the same language, pro-

5926

vided he has not less than 5 years of qualifying service, and by the word "qualifying" service, we mean of this type of service.

Mr. RIVERS. You mean service?

Mr. HARDY. I think that would improve it, actually. When you are going to retire these people on 20 years at age 50, you are going to have to have something to tie this thing down.

That is an awful young retirement age.

Mr. BATES. FBI has it now.

Mr. RIVERS. The FBI does it. They made a very compelling case on it.

Mr. HARDY. But we are talking here about people who have had most of their service in another agency.

Mr. BLANDFORD. This is qualifying service for voluntary retirement.

Now when you get to involuntary retirement for disability you are getting into a different situation.

But here it is the man's own election. I would suggest, Mr. Chairman, that we add the word "qualifying" before the word "service" on line 24 at page 12.

Mr. HARDY. I believe we should too.

Mr. RIVERS. Let's hear from General Carter.

What about that?

General CARTER. I don't see any practical objection, sir, although it is a limitation on the director's discretion. I should point out that a man is not per se qualified to be a participant here purely because he has had 5 years of this service. It might take 15 years.

Mr. RIVERS. Now these people are not—that is what I am talking about, his nerves, he would not be completely disabled. These people are not exactly like the FBI. These people take anything that comes down the pike and never disclose their identity.

We have got to be in sympathy with the CIA or we cannot get you good men.

Mr. HARDY. We are not talking about the involuntary retirement.

Mr. RIVERS. We are talking about this 5 years here.

Mr. HARDY. But we are talking about the man who voluntarily retires.

Mr. RIVERS. He may want to.

Mr. HARDY. If he is involuntarily separated he comes under these other provisions.

Mr. RIVERS. No, I am talking about 20 years, and the 5 years with the Agency.

Do you see what I am talking about? You had better explore all these possibilities.

This is the first time we have written anything like this for you, and we want to comprehend exactly what we are doing. That is what I am thinking about.

Mr. Blandford, you can straighten me out.

Mr. BLANDFORD. I see your point, Mr. Chairman, and of course I can see General Carter's point that the Director is not going to approve anybody for retirement who has only 6 months of covered service.

But I am also recalling the conversation we had here that this is going to be explained on the floor of the House to people who are

5927

going to raise questions about who are going to get these benefits and then maybe somebody is going to pose one of these questions "Would it be possible for somebody to serve for as little as 6 months and qualify?"

And the answer is "Yes."

Mr. RIVERS. We have got to be sold on this bill. I am talking about this committee. because a lot of people are skeptical of the CIA, I am telling you.

Mr. HARDY. Under the terms of this section, as it is drawn, as I read it, the Director's consent does not seem to be too important in this kind of a situation.

This is a voluntary action. Of course the thing does say "on his own application and with the consent of the Director," but I don't know what the Director's consent means in this kind of a situation.

Mr. RIVERS. Can anybody retire without the Director's consent?

Mr. BLANDFORD. It is the same as the Secretary of the Army, for 20-year retirement in the Army.

In other words, a man applies for retirement in the Army after 20 years of service and the Secretary of the Army says, "I am sorry."

Mr. RIVERS. There isn't any right.

Mr. BLANDFORD. There isn't any right.

Mr. BATES. Same on 30 years.

Mr. BLANDFORD. That is right.

Mr. BATES. First right you have is at 40 years.

Mr. RIVERS. The only man who has a right to retire is one with 40 years.

Can anybody retire without the consent of the Director, voluntarily?

Mr. BLANDFORD. Under civil service.

General CARTER. Under civil service at age 62 with 5 years of service, or at 60 with 30 years of service. I do not think the Director is in a position to override his request.

Mr. RIVERS. What about in this act?

General CARTER. Yes, sir, in this one he can.

Mr. RIVERS. He can retire?

General CARTER. The Director can override his request.

Mr. RIVERS. He must approve it.

General CARTER. Yes, sir.

Mr. BLANDFORD. No, he doesn't have to approve it, he has the discretion to approve it or not, as he sees fit.

Mr. RIVERS. That is what we are talking about.

General CARTER. Discretion.

Mr. RIVERS. He must have his consent before he can retire.

Mr. BLANDFORD. That is right.

Mr. RIVERS. So I think that we should leave it this way.

Mr. BENNETT. You say there is a practical difficulty about providing that he has not less than 5 years of service in the system, you say that is a practical difficulty.

Mr. WARNER. Yes, there would be.

Mr. BENNETT. What is that practical difficulty?

Mr. WARNER. Well, you phrased it actually a little differently than we were phrasing it before. You said 5 years in the system which is a little different than 5 years of qualifying service. Five years in

5928

the system would be definitely a problem because you might not have put him in the system.

So that would be a larger problem than even the 5 years of qualifying service.

Mr. RIVERS. I believe so.

Mr. WARNER. Now with regard to the question of 5 years of qualifying service, you may have a man who performed outstanding service under most unusual conditions but meets all criteria but happens only to have had 4 years of qualifying service or 3 years, but maybe it is really worthwhile.

So it is a question of whether you are going to limit the Director on this one.

Mr. RIVERS. I don't know that we can do that.

Mr. BLANDFORD. Of course you could have a situation in here to justify the bill as written where a man had served say, as a reserve officer for say 16 years and then was RIF'd, in a reduction in force, goes to work for CIA. Then gets into covered service for 2 years or say 4 years, is not physically disabled, but his usefulness to the CIA is practically gone and in the interest of the CIA they more or less urge him to apply for retirement.

But to give him the privilege of applying for retirement and then this man only has 4 years of qualifying service, he has a total of 20 years service, 4 years of covered service, we would at least preclude him and perhaps preclude him for the remainder of his career from applying for voluntary retirement at age 50, even though: (a) his usefulness is gone; (b) he might be in a physical condition that would not justify disability retirement but actually for the purposes for which he had been trained and employed he was of no further use to the CIA.

I can visualize that situation happening. Take, for example, the man who has come back from a place where he is not actually going to be retired for disability but he is of no further use to the CIA.

This is a situation that could work an injustice, if you require 5 years of qualifying service, because this man may never get 5 years of qualifying service, assuming the Director followed the law, the intent of the law.

Mr. HARDY. Let's leave it "service with the agency," Mr. Chairman.

Mr. BLANDFORD. All right.

Mr. RIVERS. Let's go.

Mr. BATES. How are we going to leave it?

Mr. RIVERS. Just like it is.

Mr. BENNETT. Like it is.

Mr. WARNER. The next one is on page 18. I don't think we need to go into it again, unless someone wishes to.

I have touched on that.

Mr. BLANDFORD. Let me get in the record here that this is a different situation now, where we get into the man that has less than 20 years of service. Here we are being much tougher. We are saying if you are going to retire these people, and have them draw an immediate annuity, they are going to have to have at least 5 years of covered service and 10 years of service with the Agency, so that we don't have people coming in from the outside, going to work for 2, 3, 5 years, then a year of qualifying service, and then drawing an annuity.

5929

This is the tough provision.

Mr. KILGORE. Let me raise a question back on page 12. Would it be consistent with our intent and desire of the Agency if our report makes reference to this language and said this is not intended to provide for retirement for the convenience of the person involved?

Mr. RIVERS. You could.

Mr. WARNER. You could.

Mr. BLANDFORD. We could say it, but actually it is not for the convenience of the person. Let's put it this way: I can visualize this provision being used for the convenience of the individual, but I can visualize it being used more often for the convenience of the CIA, where they tell the man that, "Look, you can retire voluntarily if you want because you are now covered under this law and you can draw an immediate annuity, or we can involuntarily separate you with a deferred annuity, which do you want?"

There is not going to be much question about what the man is going to take. So from the viewpoint of the individual I would say that there are going to be a lot of people who are going to retire voluntarily, which would presumably indicate it is for their own convenience, but in most of the cases it will be for the convenience of the CIA.

Mr. KILGORE. That is what I presumed from the discussion was its basic intent. I don't know whether there is any way to further clarify the intent of both the Agency and the committee.

Mr. WARNER. I would assume this, that with the consent of the Director, if we urgently needed this man's services we are not going to consent to his retirement. So in a sense it is mutual convenience, really.

Mr. BLANDFORD. That is really what it is, mutual convenience.

Mr. RIVERS. That is it.

Mr. KILGORE. All I was looking toward is preventing a situation from arising which is a problem to you as well as a policy problem to the Congress and that is, that provision becoming in the eyes of everybody concerned more and more of a vested right over the years, because these things do happen.

Mr. WARNER. Yes.

Mr. KILGORE. So that it amounts to a loss of personnel to you.

Mr. RIVERS. I see what you are talking about. You start your precedent and it will keep on snowballing.

Mr. WARNER. I think it reflects mutual convenience.

Mr. HIDDLESTON. Have you some better language than "to promote the efficiency of the Agency"? That sounds like a man ought to be fired rather than retired, if he is being retired to promote the efficiency of the Agency.

I wonder if we can't use some language that wouldn't be such a stigma on the man who is retired?

Mr. WARNER. Well, of course, this embraces most everything. Mr. Huddleston, reduction in overall age brackets, the hump problem, surplus skills.

Mr. BLANDFORD. Perhaps Mr. Huddleston has a very good point. Why do we need any language? Why don't we say "the Director may in his discretion retire participants in grade GS-14 and above," period?

Mr. WARNER. That is agreeable.

5930

Mr. BENNETT. That is good.

Mr. HUDDLESTON. Yes.

Mr. BLANDFORD. That would solve it.

Mr. RIVERS. No use tagging something on the fellow that he can't get loose from.

Good point, Mr. Huddleston.

Mr. HUDDLESTON. I occasionally come up with a good point.

Mr. RIVERS. Not infrequently, Mr. Huddleston, not infrequently.

Mr. BLANDFORD. I want to settle one thing. Because if you take it out above, "to promote the efficiency of the Agency," we either ought to take it out or if we leave it in we will have to explain why we left it in.

Mr. HUDDLESTON. I think it ought to come out.

Mr. RIVERS. Make it consistent.

Mr. WARNER. Both places.

Mr. BLANDFORD. That is all I want to know.

Mr. WARNER. This brings us up to where we were, Mr. Chairman, and brings us down to section 235.

Mr. RIVERS. Where is that?

Mr. WARNER. On page 15, "Mandatory Retirement Age."

Mr. RIVERS. Now, Mr. Blandford, you take over.

Mr. BLANDFORD. I think what we ought to turn to now, Mr. Chairman, is just the explanation. We all have an explanation in here.

Mr. RIVERS. Do we go back now?

Mr. BLANDFORD. Go back to the printed explanation of section 235.

Mr. RIVERS. What page is that?

General CARTER. Page 13 of tab 3.

Mr. BLANDFORD. Here is a mandatory retirement provision at age 65 to GS-18 and above, except I think this is similar to most civil service laws, that if the Director wants to continue him, he can.

Mr. WARNER. For another 5 years.

Mr. BLANDFORD. That is right. Age 60 is compulsory retirement for those below the grade of GS-18.

Mr. RIVERS. In other words, his mandatory age is 65 unless it is certificated by the Director that it is in the public interest?

Mr. WARNER. That is right. Then it can go no longer than 5 years.

Mr. BENNETT. I don't want to confuse matters, but I always wonder why we say "not to exceed 5 years." Some people are 90 and pretty able. I can see as you approach the possibility of senility that it would be a good idea to have a short term.

Mr. RIVERS. There are two reasons. It cuts down the aspirations and the hopes of the fellows down below; that you couldn't keep a man on forever, that there is always a possibility of his going in, and some time the fellow has to get out. Same way in the military.

Mr. BENNETT. That is a good argument.

Mr. RIVERS. We have a lot of people in the military. I know these fellows who are passed over at 52, there are plenty of them—

Mr. LONG. What about Congressmen and chairmen?

Mr. BENNETT. It is not identical to the military because there you can extend anybody regardless of age.

Mr. WARNER. This is more consistent with the Foreign Service. They have the same.

Mr. BLANDFORD. Actually 64 is the maximum age in the military.

Mr. BENNETT. You can call people back.

- 5931

Mr. BLANDFORD. You can call a retired officer back in rare instances or pass special laws for people such as General MacArthur. But by and large, you have a maximum of 64.

Mr. RIVERS. What is the next part, Mr. Blandford?

Mr. BLANDFORD. Section 241. "Disposition of Contributions and Interest in Excess of Benefits Received." This is strictly a bookkeeping operation which I don't pretend to understand.

Mr. WARNER. The essence of this is if the benefits which have been paid to the retired annuitant, to his beneficiaries, if any, do not take all the funds in his account, when the annuity ceased, then those funds in excess of contributions are refunded. This is a standard provision so that the Government doesn't make money on a man's retirement account.

Mr. BATES. They are refunded to the beneficiaries?

Mr. WARNER. That is right, and they are stated in order of precedence.

Mr. BATES. Is there any interest on that at all?

Mr. WARNER. Four percent compounded annually.

Mr. BATES. As of what date?

Mr. WARNER. As of December 31.

Mr. BATES. No. If the benefits cease and he hasn't received everything he has put in—

Mr. WARNER. If the annuities cease?

Mr. BATES. Right. Now say he died today and then the family is going to get the lump sum, when does the interest take effect?

Mr. WARNER. The interest has been running all the years that he has been making contributions.

Mr. BATES. The unpaid amount since the—

Mr. WARNER. No, all of the years that he has been making contributions the interest is computed annually and compounded.

Mr. BATES. I see.

Mr. WARNER. During the whole period since he started making contributions.

Mr. BATES. All right.

Mr. RIVERS. Are you satisfied?

Mr. BATES. Yes.

Mr. BLANDFORD. Section 251. This is the section dealing with the computation of length of service for periods of service for annuities. I assume this is just standard language?

Mr. WARNER. This is standard language, fundamentally the same as Foreign Service and civil service.

Mr. BLANDFORD. It is identical apparently with Foreign Service.

Mr. WARNER. Identical, yes.

Mr. RIVERS. Prior service same way?

Mr. WARNER. Prior service, yes.

Mr. BLANDFORD. We will get to that in a moment. They are talking about separation.

Mr. BATES. Where are you?

Mr. RIVERS. Page 17.

General CARTER. Part F on page 15 is the one we have just covered.

Mr. HARDY. Page 17 in this book.

Mr. RIVERS. He is talking about the explanation. The explanation is on 15 at tab 3.

5932

Mr. BLANDFORD. There is one thing in there that I am sure you can explain, but we ought to have it in the record.

Section 251 says that the period of service of a participant should be computed from the date he becomes a participant under the provisions of this act and he can't possibly become a participant under the provisions of this act until it becomes an act.

Then we get to the next section 252, where we count the service. Does section 252 cover, is it all-inclusive enough to provide for retro-active application of any prior service, including—and this is what I am getting at—our qualifying service requirement?

Mr. WARNER. Yes, I think it is.

Mr. BLANDFORD. Let's make it clear for the record. The point I am getting at is we want to make sure that in crediting prior service we are crediting prior service for qualifying service.

Mr. WARNER. Yes.

Mr. BLANDFORD. As distinguished from just prior service with the CIA?

Mr. WARNER. Yes.

Mr. BLANDFORD. We don't want to find these people who have already had 5 years out in the field having to wait another 5.

Is everybody convinced that this language covers this?

Mr. WARNER. I think it does.

Mr. HARDY. Tell me again how that works.

Mr. RIVERS. You had better get that straight for the record.

Mr. BLANDFORD. That is the reason I raised it.

Mr. WARNER. That is a good point.

Mr. BLANDFORD. If you are satisfied that it does that, fine. But the way section 252 reads I am not sure that it does. That is the reason I raised it.

Mr. RIVERS. I think it does.

Mr. HARDY. Where does it do it?

Mr. BLANDFORD. It doesn't specifically, that is the only thing that bothers me. I think as long as we understand what we are doing here, this is our intent.

You are talking about a participant. A participant is the only one who would qualify under this retirement system. When we talk about him, we say he may include in his period of service, certain prior service.

Now this participant may have both types of service, qualifying and nonqualifying, and I want to make sure that any prior qualifying service will count and I am not sure the language says that.

Mr. HARDY. Well, are you sure that the language doesn't say that prior service will count as qualifying?

Mr. BLANDFORD. Well, that is something else. I hadn't thought of that, that this could be interpreted to be qualifying service without it being designated as qualifying service, but certainly that is not the intent.

Mr. RIVERS. It doesn't say either of them, as a matter of fact.

Mr. BLANDFORD. That is the only thing I am raising. I just want to make sure that we get it covered.

Mr. WARNER. I see your point, Mr. Blandford. It is certainly not explicit here.

Mr. BLANDFORD. No.

Mr. WARNER. I believe it is implicit.

5933

Mr. BLANDFORD. The only thing I am trying to do is to be helpful to somebody, to the GAO or somebody, that what we mean here is that this prior service counts and this would be prior qualifying service as determined by the Director.

Mr. WARNER. Right.

Mr. RIVERS. That would be in the interpretation of the act, the intent of the Congress would be read in what he just got through saying.

Mr. BLANDFORD. Yes, this would be all that would be needed.

Mr. HARDY. Wherein would you have prior service?

Mr. BLANDFORD. Section 252.

Mr. HARDY. Wait a minute. I know that. I mean wherein would a man have prior service which would be probably determined to be qualifying service?

Mr. BLANDFORD. This is going to be completely up to the discretion of the Director as it will in the future and for the past.

Mr. HARDY. I have a little trouble seeing why we should give the Director authority to take any prior service with any other agency and say he qualifies—

Mr. BLANDFORD. No, that is not the intent. We don't mean that.

Mr. HARDY. I want to be sure.

General CARTER. Yes, sir.

Mr. WARNER. Yes.

Mr. HARDY. I don't believe you have that problem, when they are actually CIA employees.

Mr. WARNER. Yes.

Mr. HARDY. In that particular time this is the very service which is qualifying.

Mr. BLANDFORD. That is right.

Mr. RIVERS. That is exactly right.

Mr. HARDY. Then that is not a problem here.

The other side of this question though is, and I think it ought to be clear, that employment in another agency not directly under CIA should not under any circumstances be determined to be qualifying.

Mr. WARNER. Of course we had no such intent.

Mr. BATES. No.

Mr. HARDY. I think we want to be sure.

Mr. RIVERS. Not necessarily. It may, though.

Mr. BATES. No, not at all.

Mr. HARDY. It ought not to be under any circumstances.

Mr. RIVERS. What about the FBI?

Mr. WARNER. That is not qualifying service.

Mr. HARDY. He is not qualifying for this retirement system under CIA.

Mr. BLANDFORD. I would like to raise a question here on subsection (e) which deals with crediting of military service. I would like to get a good clear explanation on this.

General CARTER. Yes.

Mr. WARNER. Yes.

Mr. BLANDFORD. For practical purposes, and I think this is true of civil service and obviously true of Foreign Service, all prior military service counts for CIA service and for all other service but there could be a situation in which an officer had been retired for combat wounds and he, because he is not counting his years of service, and I presume

5934

this is the way it would be interpreted, he is not counting his years of service—this is the point I am getting at, General, and I think you will understand it better than anyone else because you are familiar with it I know—if he retires for disability and uses his percentage factor in determining his retirement pay, then you could count his years of military service toward his CIA retirement.

What happens if you have the case of a man retired for disability, using your language, it is a service-connected disability incurred in combat but it is only, say, a 20-percent disability so he uses his years of service as a multiplier, can he then get double credit for that, for retirement?

Mr. WOODYEAR. He cannot—

Mr. BLANDFORD. Let's get that.

General CARTER. Tell us what the Foreign Service Act is.

Mr. WOODYEAR. In the Foreign Service, any benefit received for military service precludes the application of that credit toward Foreign Service computation of annuity.

Mr. BLANDFORD. Do you get into any kind of a catch when it comes to longevity?

Mr. WOODYEAR. Longevity with respect to what?

Mr. BLANDFORD. We have had this come up under social security, where a person who retires for disability cannot count his years of service during World War II if those same years of service were used determining his multiplier.

Then we get into the next question that comes up, which is if they base his disability retirement on his increments of pay, and one of those increments took place during World War II, is he counting his military service for pay purposes?

Are you with me so far?

General CARTER. Yes.

Mr. BLANDFORD. Does anybody know the answer to that?

Mr. WARNER. No, I don't.

Mr. RIVERS. You are the only person I know who could answer your questions.

Mr. WARNER. The social security application is only under the Civil Service Retirement Act.

Mr. BLANDFORD. I think, I just want to make it clear what our intent is here, if I may explain what I hope our intent is.

Let me put this in the record: We do not deal here with longevity or increments of pay. They are not considered to be a part of a limitation contained in this provision. A man with prior military service may count his military service for retirement purposes under this act. A man who is drawing retirement pay on account of that length of service may not count any of his prior military service for the purposes of his retirement under the CIA, except that a man retired for combat-incurred disability who uses his percentage of disability as a multiplier may use his prior military service in computing his CIA retirement, and we do not consider that any portion of his disability retirement pay which is based upon increments in pay, which are based upon longevity, detracts from his right to count this service for CIA retirement purposes.

Mr. BENNETT. I am certainly glad you explained so well our intention.

Mr. RIVERS. I think you made that multiplier very clear.

5935

Mr. BLANDFORD. Yes.

Mr. BLANDFORD. You can get into a problem, once in a while, with this matter because somebody who is looking to dot the "i's" and cross the "t's" says, "Well, the only time you can count your military service is if you haven't used it in any way for retirement purposes."

Well, with increments in pay, which are based upon length of service, the only way you could avoid such an interpretation is to go back to the entering pay.

Are you with me on that?

Mr. RIVERS. Yes.

Mr. KILGORE. Yes.

Mr. BLANDFORD. You go to the entering pay in order to determine that.

Now I am only anticipating what somebody may raise some day in the future. I think they would be a little silly if they did, but I want to make it clear this is not our intent here.

Mr. RIVERS. All right. We are going to try to finish this today. Where are we?

Mr. BLANDFORD. 255, "Credit for service while on military leave."

Leaves of absence do not require a participant to contribute to the fund.

This is standard.

Mr. HARDY. That is all right.

Mr. RIVERS. I think General Carter is the authority on this.

Mr. BLANDFORD. Actually, General Carter is being paid by the Department of Defense, if I understand it correctly.

General CARTER. Yes, sir.

Mr. BLANDFORD. I don't believe on a reimbursable basis either.

General CARTER. No, sir. It is reimbursed to the Department of Defense by the Agency.

Mr. BLANDFORD. In other words, you are not on leave in any sense of the word?

General CARTER. No, sir.

Mr. BLANDFORD. This is a full-time assignment.

General CARTER. Yes, sir.

Mr. BLANDFORD. Now the "Estimate of appropriations needed."

This is stated language so they will know what it is going to cost. It is my understanding that this bill will cost the Government, in addition to the contribution of six and a half percent by the individual about \$500,000 a year.

Now let's also understand that if the Government increases the annuities to survivors without any further contribution, and all that sort of thing, that this will require additional appropriations.

Nothing comes free. I think we all know that. Civil service retirement fund is, at this point, \$34 billion in the red. "vice"

But it is going to require annual appropriation. I don't know where you get the appropriation from, or how you are going to handle it.

How do you handle that: do you want to say?

General CARTER. We defend our appropriations.

Mr. BLANDFORD. Do you get the appropriation for this?

General CARTER. We will.

Mr. BLANDFORD. You will have to?

General CARTER. We will get this.

5936

Mr. RIVERS. You go before the—

Mr. WARNER. Before a special committee of the Appropriations Committee, a five-man subcommittee headed by Mr. Cannon.

Mr. BLANDFORD. "Investment of moneys in the fund," is standard language.

"Attachment of moneys" is standard language.

"Retired participants reinstated or reemployed;" this is standard language as to what happens to his retirement income.

And then, of course, this requires him to make contributions.

Mr. RIVERS. "Reemployment" is standard.

"Reemployment compensation"; is that standard?

Mr. BLANDFORD. Foreign Service.

Mr. WARNER. It is standard for Foreign Service but it is not standard in the civil service.

Mr. RIVERS. It is standard for Foreign Service?

Mr. WARNER. Yes, sir.

Mr. HARDY. Does this avoid application of the dual compensation act?

Mr. WARNER. Yes, it—

Mr. BLANDFORD. Wait a minute.

Mr. WARNER. It results in a little different treatment.

Mr. RIVERS. Let me tell you how it does. If they get somebody, take General Carter—

Mr. HARDY. This bothers me a little bit here.

Mr. BLANDFORD. No, General Carter would be in an entirely different situation.

Mr. HARDY. Yes, because he is on active duty.

Mr. BLANDFORD. Take Mr. Warner. Mr. Warner retires from the CIA, and he then is appointed to another position and—

Mr. HARDY. He can draw his retired pay and active pay.

Mr. BLANDFORD. He can draw both, and this would otherwise be in violation of the 1894 dual employment statute.

Mr. HARDY. That is right.

Mr. WARNER. That is not entirely correct; you have to read 273 because the actual situation is that a reemployed officer, under this act, would be permitted to draw the salary of the position to which he is appointed and to draw so much of his annuity, if any, which would bring his total salary for the year to the last salary he held with the Agency.

Mr. HARDY. Yes; that ties it back down just exactly the way it is now.

Mr. BLANDFORD. All right.

Mr. HARDY. All right.

Mr. RIVERS. "Reemployment contributions."

Mr. BLANDFORD. Standard completely standard.

Mr. RIVERS. A young fellow who is going to have to do a lot of studying. His recommitment chairman; I can tell you that. But I have Mr. Blandford on my left.

Mr. WARNER. We will be glad to help you.

Mr. RIVERS. We can take care of it.

Thank you very much.

(Whereupon, at 11:59 a.m., the subcommittee was adjourned, subject to call of the Chair.)

5937 HAS 10 00
TO 7 WITH OTHER
5940 THAN CIA
MATTERS

5941

The CHAIRMAN. Has the committee requested the information that Mr. Hardy has just called to our attention?

Mr. BLANDFORD. In the nature of the request that Mr. Hardy made during the subcommittee hearings; yes, sir.

The CHAIRMAN. Just during the hearings?

Mr. BLANDFORD. Yes, sir.

The CHAIRMAN. On the subcommittee hearings on this bill?

Mr. BLANDFORD. Yes. I think the Navy is well aware of this, and I think in the future you are going to see a policy.

The CHAIRMAN. The committee has requested that information. I suggest to you that you check on it and get the information.

Mr. HARDY. Thank you.

Mr. RIVERS. If the committee has requested it, request it.

The CHAIRMAN. Now, the next bill is a very important bill, a departmental bill, H.R. 8427, fixing a retirement system for the CIA personnel.

You all know this is the central agency which was created by this committee, under the jurisdiction of this committee, and now this is the bill with reference to retirement. Heretofore, they had been retiring under civil service retirement laws, and after going over this matter with Mr. McCone and his other officials, it was decided the proper way to handle the matter was by specific legislation, and a bill was introduced by Mr. Rivers on behalf of the committee and the CIA to accomplish it.

Go ahead, Mr. Rivers, explain the bill.

Mr. RIVERS. Let me at the outset say, Mr. Chairman, that we worked pretty hard on this bill. It affects one of our vital agencies. It is doing an outstanding job. And they sent the bill up here, and it contained an awful lot of provisions which didn't really affect the main and the important thing of retirement for outstanding service, and we decided to make it, to rewrite the bill, and have a bill that related specifically to the retirement of these fine personnel. And H.R. 8427 is the handiwork of the subcommittee. A copy of the bill follows:

[H.R. 8427, 88th Cong., 1st sess.]

A BILL To provide for the establishment and maintenance of a Central Intelligence Agency Retirement and Disability System for a limited number of employees, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—SHORT TITLE AND DEFINITIONS

PART A—SHORT TITLE

Sec. 101. This Act may be cited as the "Central Intelligence Agency Retirement Act of 1963 for Certain Employees".

PART B—DEFINITIONS

Sec. 111. When used in this Act, the term—

- (1) "Agency" means the Central Intelligence Agency; and
- (2) "Director" means the Director of Central Intelligence.

5942
THRU 7 TEXT OF
5949 BILL
NOT INCLUDED

5950

- (1) returned to him in lump sum; or
 - (2) used to purchase an additional life annuity; or
 - (3) used to purchase an additional life annuity for himself and to provide for a cash payment on his death to a beneficiary whose name shall be notified in writing to the Director by the participant; or
 - (4) used to purchase an additional life annuity for himself and a life annuity commencing on his death payable to a beneficiary whose name shall be notified in writing to the Director by the participant with a guaranteed return to the beneficiary or his legal representative of an amount equal to the cash payment referred to in subparagraph (3) above.
- (b) The benefits provided by subparagraphs (2), (3), or (4) of paragraph (a) of this section shall be actuarially equivalent in value to the payment provided for by subparagraph (a)(1) of this section and shall be calculated upon such tables of mortality as may be from time to time prescribed for this purpose by the Director.
- (c) In case a participant shall become separated from the Agency for any reason except retirement on an annuity, the amount of any additional deposits with interest at 3 per centum per annum, compounded as is provided in paragraph (a) of this section, made by him under the provisions of said paragraph (a) shall be refunded in the manner provided in section 241 for the return of contributions and interest in the case of death or separation from the Agency.
- (d) Any benefits payable to a participant or to his beneficiary in respect to the additional deposits provided under this section shall be in addition to the benefits otherwise provided under this Act.

At the present time all employees of CIA are limited to the normal civil service retirement benefits. On the other hand, more liberal retirement benefits have been in effect for many years for the Foreign Service and for certain personnel engaged in investigation and detection of crime and apprehension of criminals.

In our opinion, many CIA employees serve under conditions which are as difficult, probably more dangerous and onerous than the conditions which led to improved retirement benefits for the Foreign Service and certain personnel of the FBI and other agencies.

CIA employees who will come under this proposed system are obligated, in writing, to serve anywhere in the world according to the needs of the Agency, as is the case in the Foreign Service and the military, but unlike the normal civil service employee. The Agency has a definite need to maintain a young service by encouraging earlier retirement and in some cases directing earlier retirement. The voluntary early retirement features of this proposed legislation will serve this end.

Since the Agency is unable, in fact, to provide full-term careers for many individual officers, it is necessary to minimize the adverse effects of the required programs of managed attrition and to preserve its ability to recruit and retain the high caliber personnel it needs. Therefore, the Agency must make reasonable provision for the futures of those individuals who must be separated before completing a full-term career of 30 or more years.

H.R. 8427 is a clean bill introduced after careful consideration by the subcommittee following 4 days of extensive hearings on H.R. 7216 which was the original bill. While the primary purpose of H.R. 7216 was an improved retirement system, as I have said before, it did include numerous amendments of a technical nature designed to update certain sections of the Central Intelligence Agency Act of 1949. It also contained other provisions which sought to grant certain new authorities to the Agency. Early in the hearings, the subcommittee determined that H.R. 7216, in its entirety, was of such

5951

wide scope that it should be revised so as to limit it strictly to the establishment of an improved retirement system. Accordingly, H.R. 8427 has only those provisions which relate to the establishment of an integrated and self-contained retirement system for certain employees of the Agency. It is estimated that a maximum of only about 30 percent of the total employee strength will become eligible for coverage under this system.

It was determined that rather than devise an entirely new retirement system, with the attendant difficulties, the CIA retirement system should be patterned after the Foreign Service system since it was felt that such a system was sufficiently flexible to meet Agency requirements.

The primary features of this bill provide for voluntary retirement, with the consent of the Director, by an employee at the age of 50 if he has 20 years of service. The subcommittee rewrote the original section so as to require that such an employee would need at least 5 years with the Agency in order to be eligible. Another key feature of the bill will permit the Director to retire individuals involuntarily where such retiree is in the grade of GS-14 or above. Such an employee will be entitled to draw an immediate earned annuity regardless of age at time of retirement. In our consideration we added a requirement, however, that in order to be eligible for such an annuity, the individual must have had at least 5 years of qualifying service with the Agency and a total of at least 10 years' service with the Agency. The term "qualifying service" is used to refer to that type of service which the Director determines would be of the nature which would qualify an individual to be a participant in this system. Generally, only those career employees will be covered whose careers are primarily oriented toward the conduct and support of intelligence activities abroad.

The Director may also retire involuntarily employees in grade GS-13 and below. In such case, they will be entitled to deferred annuities payable at age 60 if otherwise eligible and, in addition, will receive separation compensation at the rate of 1 month's pay for each year of service with a maximum of 1 year's salary. The other provisions of the bill are comparable to the Foreign Service system.

In the interest of security, it is believed that this system must be administered within the Agency separate from existing retirement funds. In furtherance of maintaining proper security, the subcommittee bill provides that determinations authorized by the Director under the act would not be subject to judicial review. Otherwise, sensitive information relating to the assignments of these individuals probably would be brought into court in the event of a dispute. It is estimated that after a 5-year leveling off period, the net additional costs resulting from enactment of this legislation would be \$580,000 per annum.

In introducing the clean bill, H.R. 8427, we have deleted a provision in the original bill which would have excluded from gross income for Federal income tax purposes disability annuities payable under this bill. Similar provisions exist in law with respect to disability annuities for the military and the Foreign Service. However, the Ways and Means Committee was unable to complete action on this item, which is an amendment to the Internal Revenue Code. Consequently, this provision was deleted pending their final action.

5952

As indicated above, the subcommittee examined this proposal intensively and made a number of amendments which we feel result in an improved bill. We found the Agency witnesses in the course of 4 days of hearings to have been fully cooperative and frank in discussing their needs in this area. The subcommittee concluded that this legislation would materially assist the Agency in its programs.

The report of the subcommittee, Mr. Chairman, was unanimous.

The CHAIRMAN. I think it might clarify the situation if we have Mr. Blandford just to sum up in plain language the key points of this retirement system.

Mr. BLANDFORD. All right, sir.

The CHAIRMAN. What does it do more than the Foreign Service system?

Mr. BLANDFORD. It actually incorporates for a limited number of CIA employees not to exceed approximately 30 percent, and, of course, the number we cannot discuss, a retirement system patterned after the Foreign Service Retirement Act.

What this means is that after 20 years of service an individual can retire and draw an immediate annuity, an individual who is 50 years of age, that is. It also means that a GS-14 can with less than 20 years of service, whose services are no longer needed, can be retired and draw an immediate annuity.

It means that GS-13's and below can receive severance pay and obtain a deferred annuity at age 60 if their services are no longer needed.

The main feature of the bill is the provision dealing with the retirement of GS-14's. We have required, however, that the individual who qualifies in this category must have 10 years of service with the Agency and 5 years of qualifying service. The 5 years of qualifying service is a very important addition which will be peculiar only to the CIA limited retirement system, since we are talking about the specific type of work insofar as oversea areas which would qualify this limited number of employees to the advantages of this retirement system; without putting that requirement of 10 years with the Agency and 5 years of qualifying service it was conceivable that an individual could obtain this benefit of early retirement and an immediate annuity with as little as 1 year of qualifying service, and we wanted to protect against any possible abuse of the system.

Now, we concede that we are vesting in the Director of the CIA a considerable amount of administrative flexibility and discretion. We discussed this at great length; all of these hearings were held in executive session, except the opening statement of Mr. McCone. We went into the justification for the type of legislation that we suggest here. We went into the type of the people who will qualify. Obviously this cannot be discussed in open session. The subcommittee—I think I can speak at this point for the subcommittee—would agree that they made a case for this retirement system and we do recommend it because even though the Director is given administrative discretion, in many areas that are peculiar only to the CIA, for example, the provision that—

Mr. RIVERS. I think, Mr. Chairman, that discretion has to be this way, for security and other purposes, the same reason we didn't permit judicial review.

5953

Mr. BLANDFORD. I was just going to mention that.

Mr. PHILBIN. Mr. Chairman—

The CHAIRMAN. Let me ask one question.

Mr. NORBLAD. Mr. Blandford didn't finish.

Mr. BLANDFORD. I wanted to mention the point Mr. Rivers was going to mention, that the decision of the Director in who qualifies for this type of retirement, and who does not, must be final, and it cannot be subject to review by a court. I think you can all understand why it would be adverse to our interest to have a disgruntled employee go into court and try to justify entitlement by relating his experiences which in his opinion justify this type of retirement. So it is a discretion that we are granting to the Director. We have to obviously have faith in his decisions in this matter.

The CHAIRMAN. Let me ask you one question. Do we set a precedent by stating that after one has served 20 years in the CIA irrespective of age he is eligible for retirement?

Mr. BLANDFORD. It is not a precedent.

The CHAIRMAN. Is that permitted in any other?

Mr. BLANDFORD. Yes, there is the Foreign Service Act and the FBI retirement system.

The CHAIRMAN. That is permitted there?

Mr. BLANDFORD. Yes.

Mr. RIVERS. No precedent.

Mr. BATES. Military services.

Mr. BLANDFORD. The employee who qualifies at age 50 with 20 years of service can retire, and it is a mutual arrangement. We have this in the FBI, and we have it in the Foreign Service, and we are adopting this for the CIA. This is not true, of course, of the civil service retirement system.

Mr. NORBLAD. We also have it in the Congressional Act for us, 18 years and 50 years of age.

Mr. BLANDFORD. Correct, that is right. It is considered to be a hazardous occupation.

The CHAIRMAN. Now, any questions, any members of the committee?

Mr. BRAY. Yes.

The CHAIRMAN. Mr. Bray.

Let there be order, members.

Mr. BRAY. Page 3 says the Director may also retire involuntarily employees at grade GS-13 and below. Now, does that mean that if for reasons that he deems advisable he can release anyone, grade 13 and below, at his discretion?

Mr. BLANDFORD. That is an attrition feature.

Mr. BRAY. And that is not subject to review?

Mr. BLANDFORD. No, sir.

The CHAIRMAN. Now, are there any further questions?

Mr. BECKER. Mr. Chairman, just one.

The CHAIRMAN. Mr. Becker.

Mr. BECKER. I have been trying to find it in the bill. On page 3 of Mr. Rivers' statement in selecting the individuals who will be subject to this new retirement benefit, it says generally only those career employees will be covered whose careers are primarily oriented toward the conduct and support of intelligence activities abroad.

5954

Does that mean that one employee right here in Washington, or in the CIA here, or how is it covered in here that this means those who are in hazardous operations that this bill I believe is primarily directed to?

Mr. BLANDFORD. We give the Director authority to determine who will qualify. The hearings are complete, some of it of course deleted from the printed hearings, but the hearings are replete with examples of the type of people we are talking about. I will try to answer the question in open session without speaking too freely on it, but this is what we mean by qualifying service.

Mr. RIVERS. That is the qualifying phrase.

Mr. BLANDFORD. We are not talking about the average man who reports to the CIA building 8 o'clock in the morning and leaves at 5 o'clock, and goes home and spends his career here in Washington. We are talking about people who are engaged in a far more hazardous occupation than that. We recognize that we cannot spell out either in the report or in the bill what we really mean. The subcommittee understands what it means, the Director of the CIA made it clear what he means, and this is why I said this is the case of where the subcommittee after hearing the testimony decided that they had to put their faith in the Director to decide who among these employees would be considered to have the type of qualifying service, and we used the words "qualifying service" as distinguished from service with the Agency.

Mr. BECKER. What I had in mind was somewhat similar to the chairman's mention of the question of precedent, because as we move along in these 20-year retirements the next thing we will have the millions on civil service who will want a 20-year retirement, too, and that is far more pressure than we will ever get from this.

Mr. RIVERS. If you want further information I will be glad to give it to you.

Mr. BECKER. It isn't that I just want it, Mendel, but whether it is covered adequately that when the great bulk of the civil service organizations gets wise to this bill, they are going to start demanding a 20-year retirement with special benefits similar to this, and we ought to be well prepared as to this hazardous nature. And undoubtedly there may be some machinists or mechanics in civil service, and others, that will deem their occupation as being extra hazardous also, and will want similar benefits. This is what I have in mind.

The CHAIRMAN. Without objection.

Mr. WINSTEAD. Mr. Chairman.

Mr. RIVERS. I will be glad to give you anything you want.

Mr. BECKER. I am not opposed to this.

Mr. PHILBIN. Mr. Blandford, is there any precedent in legislation of this kind for failing to give judicial review to an aggrieved party?

Mr. BLANDFORD. Mr. Warner?

Mr. WARNER. Yes, there is ample legislative precedent for this, Mr. Philbin. We find it in parts of the Atomic Energy Act, in the Veterans Benefit Act, and in part in the Civil Service Act.

Mr. PHILBIN. Does it relate to retirement acts?

Mr. WARNER. Veterans benefit and in the civil service side it is not a complete exemption, but certain findings of the Commission are not subject to judicial review in the retirement field.

5955

Mr. LONG. Has this been tested in the courts?

Mr. WARNER. Yes, it has been tested in the courts, and it is held to be appropriate.

Mr. RIVERS. Let me say this, it is based entirely on security.

Mr. PHILBIN. I can conceive of how in a matter of this kind if it was based on security, and the question came up, the person exercises their right of review before an appellate court, or any court, that it would be possible for the court to conduct the proceedings in camera so there would be no danger to security in any way, if the applicant is aggrieved or feels he is aggrieved, it gives him an opportunity to have his case determined over and above and beyond the decision of the Director, which is purely a bureaucratic decision.

Mr. RIVERS. I saw a case the other day where in my opinion, and a lot of other people's, where a Communist was planted in the FBI. It is perfectly possible to plant one in your Agency for these very reasons. If you spread it out on the court records they could add it up, one, two, three, four, by just ordinary arithmetic and find out the machinations of the Agency. They are not too good, they will get in the church, in the school, they will get in CIA, in the Congress, they will get anywhere. That is why we put this in.

Mr. WINSTEAD. In connection with that, as long as we have the type of leadership we have now in CIA it is all very well, but suppose later on the wrong kind of fellow becomes head of this? Now, you have a record, I assume, Mr. Blandford, where this subcommittee can go back in with the record made and question and keep an eye on this thing?

Mr. BLANDFORD. Yes, sir.

Mr. WINSTEAD. Somebody I think needs to keep an eye on it, but this subcommittee can do that with the record you have?

Mr. BLANDFORD. Yes, sir. The record is in the safe, the amount that had to be deleted for the public hearings probably exceeds the amount that will be printed. There are three features of this bill, I want to make clear—

The CHAIRMAN. Now, members of the committee.

Mr. BLANDFORD. Mr. Chairman.

I just mention that you are only talking about a limited number of employees. You are talking about 50 years of age and 20 years of service, and 5 years with the agency, that is the first time.

The CHAIRMAN. A quorum being present.

Mr. BLANDFORD. And GS-14's and GS-13's and below.

The CHAIRMAN. And if there is no objection, the committee unanimously approves H.R. 8427, and I ask Mr. Rivers to go before the Rules Committee, to obtain a rule, and we agree to the bill with the amendments.

Thank you, Mr. Rivers.

Mr. RIVERS. I would like to say the committee is very glad to do everything they can at the direction of the committee.

The CHAIRMAN. Thank you, that is what you are here for. As long as you do that you will be able to get back to Congress. That is the reason I have been here 49 years.

Now, Mr. Philbin, have you anything from your subcommittee?

Mr. PHILBIN. Yes, Mr. Chairman.

The Subcommittee 2 has three bills this morning. The first of these is S. 812.

1-2-11-11

44
65

9 October 1963

MEMORANDUM FOR THE RECORD

SUBJECT: Rivers' Presentation of H. R. 8427 to the House Rules Committee

1. In open session, Representative L. Mendel Rivers, accompanied by Representative William H. Bates and Committee Counsel, Russell Blandford, presented the request for a rule to permit floor action on H. R. 8427 limited to one-hour debate. Rivers read a prepared statement giving the main features of the bill. Representative Howard W. Smith questioned strongly the absence in the bill itself of any criteria or limitations on numbers and types of people the Director could designate for the system. Representative Clarence J. Brown questioned the same point and, in addition, raised serious questions about whether or not CIA was efficient referring to the Bogota incident and the Bay of Pigs. Mr. Brown stated there was too much mystery concerning the Agency and he queried whether the Armed Services Committee had ever truly investigated the Agency or whether it simply relied on reports. Mr. Rivers said he had not participated in any investigation but stated the Agency had been very frank and candid in its reports to the Committee which were not in writing. Brown also asked the total number of employees in the Agency and Mr. Rivers stated he could not give it in open session but would be glad to give to the Chairman or any other member of the Committee privately the number.

2. Representative Katharine St. George stated she had serious reservations concerning the bill since it did not have any specific limitations on the types of people to be covered. She thought that it

would be an easier job to get the bill past the House if there were such wording. Mr. Rivers stated that he would be happy to discuss this with her, planning to accept Mrs. St. George's suggestion that the criteria of hazardous duty be inserted in the bill.

3. Representative H. Allen Smith picked up the same theme and stated that while he knew John McCone very well this was simply too much discretion to grant the Director, adding that the Director of CIA already had too much power.

4. Representative Richard Bolling prefaced his remarks by saying that he was going to support a rule as well as the bill but on the other hand he felt that the interest of the Congress could be better served if there were a Joint Committee to function as a watch dog over the Agency and added that he thought possibly there would be many benefits accruing to the Agency since existing parent committees are saddled with many other and important responsibilities.

5. Mr. Rivers stated he thought the Agency was doing a fine job and that this bill is very much needed to assist in the management of the Agency with its manifest problems including the unique situations in which its personnel are placed. Mr. Bates commented that he strongly supported the bill adding that he was amazed to have learned that the Agency had not had this all along and felt this was definitely a proper step in the right direction.

6. Subsequently, it was learned the Rules Committee acted favorably granting the rule for two-hour debate with a proviso that an amendment be worked out for defining in some degree the types of people who would be covered under the bill. Three members were designated to meet with Committee Counsel, Russell Blandford, and a representative of the Agency tomorrow morning at 10:30. The three members are: H. Allen Smith, Katharine St. George and James J. Delaney.

7. In view of the types of questions that were raised during this hearing, Mr. Rivers in a session with the undersigned later requested that we prepare for him some material which he could use during the floor discussion. I said I would be happy to work on this for him and have it available upon his return to Washington.

cc: DCI
DDCI
Executive Director
D/Personnel

JOHN S. WARNER
Legislative Counsel

1963

CONGRESSIONAL RECORD — HOUSE

19587

Naval radio station, Sugar Grove, W. Va.

The Senate restored \$3,480,000 requested by the Navy to permit the transfer of Navy radio receiving facilities from Cheltenham, Md., to Sugar Grove, W. Va. The Senate conferees pointed out that due to continually rising high noise levels at the existing installation, the receiving facilities at Cheltenham must be moved to another location. Since the Sugar Grove site is ideally suited for this purpose, advantage can be taken of the existing investment of the Navy at this present location. The House receded from its position and accepted the Senate amendment.

Classified naval installations

The Senate authorized four construction projects for naval installations at Puerto Rico in the amount of \$8,487,000. These items had previously been deleted by the House. The House conferees insisted that these projects could be properly deferred until the fiscal year 1965 program. The Senate conferees receded from their position and accepted the House deletion.

The Senate deleted two projects for Rota, Spain, and a communication facility at another location in the total amount of \$10,351,000. These items had previously been approved by the House. The Senate conferees pointed out that these projects could safely be deferred until the fiscal year 1965 program. The House conferees receded from their position and accepted the Senate deletions.

As a consequence of the foregoing changes, the authorization to the Secretary of the Navy for the development of classified naval installations was reduced from \$71,532,000 to a new figure of \$63,095,000.

Randolph Air Force Base, San Antonio, Tex.

The Senate authorized \$3,044,000 for construction and related improvements at this location. The House had previously authorized only \$1,475,000. The major difference in the House and Senate action was the refusal of the House to provide \$2,087,000 required for alterations to the headquarters building at Randolph to house all Air Force personnel management facilities at that location.

The Senate conferees were of the opinion that the increased management efficiency and economies that would result from the centralization of personnel management facilities at Randolph would more than justify the construction cost involved in this relocation. The House conferees, therefore, receded from their position and accepted the Senate amendment.

Laredo Air Force Base, Laredo, Tex.

The House had provided authorization in the amount of \$3,134,000 to be accomplished at an air training command facility to be selected by the Department of Defense. The House Committee on Armed Services in testimony provided it by witnesses of the Department of the Air Force was of the opinion that this construction would be effected at Laredo Air Force Base. This opinion was subsequently confirmed by correspondence received from the Department. Subsequently, the Senate in acting on this authorization request, deleted the item in its entirety.

The House conferees pointed out that a serious deficit in the number of pilots in the Air Force will exist throughout the foreseeable future unless the production of new pilots is increased. The House conferees also pointed out that Laredo Air Force Base is ideally suited for this purpose. However, construction is required to insure appropriate training facilities for the pilot training which should occur at this base.

The Senate conferees were of the opinion that this entire project could be deferred another year. After considerable discussion, the conferees agreed to provide the first increment of construction authorization for

Laredo Air Force Base amounting to \$275,000. This authorization would permit the elimination of a lighting deficiency on the runway approach to the base.

The remaining line items for Laredo Air Force Base which were deferred should be resubmitted by the Department for reconsideration by the House in connection with the Department's fiscal year 1965 construction authorization request. Thus, this item will be given new consideration in the next 90 days.

Bolling Air Force Base, Washington, D.C.

As in the case of Fort Myer, Va., the Senate believed that some provision must be made to provide adequate quarters for bachelor military personnel in the Washington area and, therefore, restored \$4 million of the amount requested for troop housing at Bolling Air Force Base. The original request made by the Department and deleted by the House amounted to \$6.9 million. The House receded from its position and accepted the Senate amendment.

SUMMARY OF THE BILL

Differences in dollar authorization

As the bill passed the House, the total authorities granted amounted to \$1,636,828,000.

The corresponding authority granted in the Senate version of the bill totaled \$1,685,861,380, or \$49,033,380 more than the House version.

The total agreed to by the conferees is \$5,425,000 more than the House version and \$43,608,000 less than the Senate version.

Total authorization, fiscal year 1964, as approved by House-Senate conferees

New authorization:

Title I (Army).....	\$199,633,000
Title II (Navy).....	202,462,000
Title III (Air Force).....	488,367,000
Title IV (Defense agencies).....	24,403,000
Title V (housing).....	685,312,000

Subtotal.....	1,600,177,000
---------------	---------------

Deficiency authorization:

Title I (Army).....	3,209,000
Title II (Navy).....	87,000
Title III (Air Force).....	166,000

Total.....	3,462,000
------------	-----------

Title VII (Reserve components):

Army National Guard.....	7,500,000
Army Reserve.....	4,700,000
Naval and Marine Corps Reserve.....	5,700,000
Air National Guard.....	15,970,380
Air Force Reserve.....	4,600,000

Total.....	38,470,380
------------	------------

Deficiency authorizations:

Army National Guard.....	84,000
Army Reserve.....	60,000

Total.....	144,000
------------	---------

Grand total of all authorizations.....	1,642,253,380
--	---------------

CARL VINSON,
L. MENDEL RIVERS,
PHILIP J. PHILBIN,
LESLIE C. ARENDT,
P. EDWARD HEBERT,
WALTER NOBLEAD,
WILLIAM H. BATES,

Managers on the Part of the House.

CALL OF THE HOUSE

Mr. GROSS. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Mr. ALBERT. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The Clerk called the roll, and the following Members failed to answer to their names:

[Roll No. 186]

Abernethy	Harvey, Ind.	Pelly
Baring	Harvey, Mich.	Pepper
Bolton	Herlong	Powell
Oliver P.	Hoffman	Purcell
Bonner	Horan	Randall
Brock	Jones, Ala.	Reid, Ill.
Buckley	Kath	Richman
Burton	Kee	Roberts, Ala.
Celler	Kelly	Roberts, Tex.
Davis, Tenn.	Kilburn	St. Onge
Dawson	Lankford	Scott
Dent	Long, La.	Shelley
Derwinski	McMillan	Sickles
Diggs	Macdonald	Skubitz
Dowdy	Maillard	Springer
Paighan	Martin, Calif.	Stafford
Ford	Mathias	Stinson
Fraser	May	Taft
Fuqua	Miller, N.Y.	Taylor
Grant	Montoya	Thompson, La.
Green, Pa.	Morrison	Thompson, N.J.
Harding	Morton, Md.	Tollison
Harris	Nedzi	Utt
Harsha	O'Brien, Ill.	White

The SPEAKER. On this rollcall 362 members have answered to their names, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

COMMITTEE ON WAYS AND MEANS

Mr. MILLS. Mr. Speaker, I ask unanimous consent that the Committee on Ways and Means have until midnight Monday, November 4, 1963, to file a report on H.R. 8969, along with any minority or supplemental views thereon.

The SPEAKER. Is there objection to the request of the gentleman from Arkansas?

There was no objection.

CENTRAL INTELLIGENCE AGENCY RETIREMENT ACT OF 1963 FOR CERTAIN EMPLOYEES

Mr. DELANEY. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 543 and ask for its immediate consideration.

The Clerk read as follows:

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 8427) to provide for the establishment and maintenance of a Central Intelligence Agency Retirement and Disability System for a limited number of employees, and for other purposes. After general debate, which shall be confined to the bill and shall continue not to exceed two hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Armed Services, the bill shall be read for amendment under the five-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

Mr. DELANEY. Mr. Speaker, I yield 30 minutes to the gentlewoman from

19588

CONGRESSIONAL RECORD — HOUSE

October 30

New York [Mrs. ST. GEORGE] and, pending that, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 543, provides for consideration of H.R. 8427, a bill to provide for the establishment and maintenance of a Central Intelligence Agency retirement and disability system for a limited number of employees and for other purposes. The resolution provides an open rule with 2 hours of general debate.

At the present time all employees of the Central Intelligence Agency are limited to the normal civil service retirement benefits. On the other hand, more liberal retirement benefits have been in effect for many years for the Foreign Service and for certain personnel engaged in investigation and detection of crime and apprehension of criminals. Many CIA employees serve under conditions which are at the least as difficult and frequently more dangerous than the conditions which led to improved retirement benefits for the Foreign Service and certain personnel of the FBI and other agencies. CIA employees who will come under the proposed system are obligated to serve anywhere in the world according to the needs of the Agency, as is the case in the Foreign Service and the military, and unlike the normal civil service employees. It seems only right that such employees should receive benefits similar to those benefits received by Foreign Service personnel.

Mr. Speaker, I urge adoption of House Resolution 543.

Mrs. ST. GEORGE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this resolution, as has already been stated, makes in order the consideration of H.R. 8427 to provide for the establishment and maintenance of a Central Intelligence Agency retirement and disability system for a limited number of employees, and for other purposes.

Mr. Speaker, the Committee on Rules held hearings on H.R. 8427 on October 9, 1963. The Armed Services Committee hearings and the report on H.R. 8427 stressed that only those employees engaged in the conduct and support of intelligence activities, meaning hazardous duty or service in foreign countries, will be eligible for an improved retirement and disability program. This, of course, we all agree is right and proper and, indeed, necessary.

Mr. Speaker, during the Rules Committee hearings it was brought out that the bill itself did not contain the language limiting the program to employees on such duty. However, in the course of our deliberations it was suggested that an amendment would be offered by the committee. To this, I am happy to say the Committee on Armed Services and the subcommittee agreed wholeheartedly.

Mr. Speaker, it is my understanding that this amendment will be offered on page 3, beginning at line 13 and going through line 21. This would tighten up the bill. It will write into the bill exactly what the committee intended. It will make a differential between people who are performing simply ordinary duty

in CIA and those who are indeed on hazardous occupations.

Mr. Speaker, I think with this amendment there is certainly no objection to the bill and I urge the adoption of the rule.

Mr. GROSS. Mr. Speaker, will the gentlewoman yield?

Mrs. ST. GEORGE. I yield to my friend, the gentleman from Iowa [Mr. GROSS].

Mr. GROSS. Was any explanation given to the Committee on Rules as to why this bill went to the Committee on Armed Services of the House of Representatives rather than to the Committee on Post Offices and Civil Service which handles other retirement legislation?

Mrs. ST. GEORGE. Well, it was my understanding, may I say to the gentleman from Iowa, that the CIA has usually been under the Defense Department. Therefore, it was considered proper that this should go to the Committee on Armed Services. I do not think there was very much questioning on that particular subject, may I say to the gentleman from Iowa.

Mr. GROSS. Is the CIA subject to the jurisdiction of the Secretary of Defense?

Mrs. ST. GEORGE. No one seems to know to whom they are subject, I may say to the gentleman. One cannot find out how many people are employed in the Agency and one cannot find out exactly what their duties are. We heard varying figures. It is a very hush-hush, secret organization.

As long as the gentleman brings the subject up, I think we might also say that Americans are not very accustomed to dealing with cloak-and-dagger organizations. This is one, perhaps, that we are not too well fitted to discuss.

Mr. GROSS. I am sure we all had difficulty finding out what part the CIA played in the Bay of Pigs fiasco.

Mrs. ST. GEORGE. I agree with the gentleman. It is very difficult to find these things out but, perhaps, that has to be so in an organization of this kind.

Mr. RYAN of New York. Mr. Speaker, will the gentlewoman yield?

Mrs. ST. GEORGE. I yield to the gentleman from New York.

Mr. RYAN of New York. I was interested in the remarks of the gentlewoman concerning the CIA and the cloak of secrecy surrounding it. I am reminded that there are a number of bills pending in the Congress. I am the author of one, House Joint Resolution 145, which would establish a special watchdog committee over the CIA. Certainly recent events in South Vietnam confirm the need for a Joint Committee on Foreign Information and Intelligence to oversee the CIA. I hope the Rules Committee will report out one these bills with as much expedition as this bill has been reported out.

Mrs. ST. GEORGE. I am a very humble member of the Rules Committee, so I can do very little in assisting the gentleman in his desires.

Mr. RIVERS of South Carolina. Mr. Speaker, will the gentlewoman yield?

Mrs. ST. GEORGE. I yield to the gentleman from South Carolina.

Mr. RIVERS of South Carolina. Mr.

Speaker, under the National Security Act of 1947, the CIA was created and it came under the National Security Act in the Defense Department. We had jurisdiction over the National Security Act, which is the reason we bring in this bill.

Mrs. ST. GEORGE. I knew it was proper that the CIA should be under the Committee on Armed Services. It always has been.

Mr. RIVERS of South Carolina. Under the law we have jurisdiction over the National Security Act. The CIA was created under the National Security Act. It is as simple as that. Of course, it is responsible to the President of the United States.

Mrs. ST. GEORGE. It is an organization that is primarily engaged in the defense of our country, therefore it is proper that it should be under the gentleman's committee.

Mr. RIVERS of South Carolina. The gentlewoman is absolutely correct.

Mrs. ST. GEORGE. Mr. Speaker, I yield 5 minutes to the gentleman from California [Mr. SMITH].

(Mr. SMITH of California asked and was given permission to revise and extend his remarks.)

Mr. SMITH of California. Mr. Speaker, as stated by the gentlewoman from New York, there were questions in the minds of members of the Rules Committee as to whether the language in this bill will do what the proponents want it to do. Accordingly, certain amendments were worked out. The gentlewoman from New York [Mrs. ST. GEORGE] showed them to me, and I suggested that the language be further tied together to make certain that we are referring to those employees abroad who are also engaged in hazardous work. The amendment does not do that. It will include every employee working abroad. At the time, I told the gentlewoman from New York [Mrs. ST. GEORGE] that even if this amendment were agreed to, that I personally would not support the bill.

Mr. RIVERS of South Carolina. Mr. Speaker, will the gentleman yield?

Mr. SMITH of California. I yield to the gentleman from South Carolina.

Mr. RIVERS of South Carolina. I assure the gentleman right now that is not the intention, that is as the gentleman stated it.

Mr. SMITH of California. That is the way your amendment reads.

Mr. RIVERS of South Carolina. I do not think so, and we do not consider it as such. In my later discussion I will cover the history of this legislation so that there will be no question about it.

Mr. SMITH of California. I think it would be much better if we took sections 1 and 2 and placed them in this law so that we know that, rather than making legislative history, so that the two would be tied together. I personally am not in support of this particular bill.

Mr. Speaker, I am not refusing to support this measure because I do not believe that the employees are entitled to it. My refusal is because I just do not know whether or not they are entitled to it. I know so little about the CIA and their activities, that I do not wish to pass

1963

CONGRESSIONAL RECORD — HOUSE

19589

further legislation which will further increase my lack of knowledge. It seems to me that Congress not only has the right, but that it has the responsibility to know more about the CIA.

I understand that senior members of the House and Senate committees meet from time to time with the CIA Director, and that in 1956 a President's Board of Consultants on Foreign Intelligence Activities was established. But even so, I do not know how thoroughly they check the activities of the CIA.

As supervisor of espionage, sabotage, plant protection, communism and internal security investigations in the Los Angeles office of the FBI prior to and during a portion of World War II, I am aware that this work is sometimes hazardous. There is no doubt that if the CIA is doing its job in espionage and counterespionage, that some of the employees are engaged in hazardous work. But in many ways, it is probably no more hazardous than that of the FBI, the Secret Service, the Narcotics Bureau, or for that matter, the daily work of many policemen here in Washington, D.C.

I repeat, Mr. Speaker, I am not opposing this measure because I do not think CIA is deserving of it. It is because of the fact that I know so little about their activities. I am not criticizing the CIA or commending them, because again I do not know enough of their activities to take either position. But I do have some questions in my mind that I believe should be answered. And I believe they can be answered without interfering with their activities. How many employees are there in the CIA?—1,000, 5,000, 10,000, 15,000 or more. I am inclined to feel that there are probably more than 15,000 but have nothing to factually so state. How many employees are there in London?

England has its own intelligence and counterintelligence people. We are close allies. If CIA is engaged in counterintelligence activities in London, they certainly must be working directly with appropriate English authorities. I would like to know the answer to this. Certainly if the English authorities had any evidence of espionage in the United States, or wished any information, they could send one man to see Director Hoover of the FBI, and appropriate investigation would be commenced within the hour, throughout the United States if necessary, and the English investigator would be kept completely informed. If there are 200 employees in London, which I have heard, but cannot state as a fact, what are they doing? I think we are entitled to know something about this, Mr. Speaker.

Testimony before Rules indicated that this measure would apply to about 30 percent of the employees. I ask 30 percent of how many. I also think we are entitled to know something about what their activities were prior to the Bay of Pigs in Cuba. I have heard rumors that their information was incorrect and that the CIA was greatly responsible for this horrible event. Should Members of Congress not be entitled to know of these activities and to in some way have at least a little control over the CIA? Very

frankly, Mr. Speaker, I anticipate that Khrushchev and even the Russian Embassy here in Washington know more about CIA than I do. Why is it so confidential that the Members of Congress do not know the annual cost of the CIA? It would not surprise me if it were more than a billion dollars annually.

I have great confidence in the Members of Congress. Certainly no Member would think of doing anything to harm our security. So it seems to me that we should have some select committee, or a watchdog committee, or some small group that could honestly and fairly check upon and with the CIA so that the rest of the Members would have some idea as to what is going on, whether we are doing our job so far as the CIA is concerned, and whether or not legislation such as the pending bill is warranted.

After the hearing in Rules and the newspaper accounts, I received some anonymous letters from persons stating they were employees of the CIA. Some of the comments were:

If CIA were bent on wrecking the morale of its employees, it could not find a better instrument than this vicious piece of legislation which will result in attracting an inferior group of employees.

Another quote:

I personally would benefit from this bill, but it is obvious just in my circle that the bill will result in a lessening of the interest and dedication of CIA employees. Already employees in their thirties are making plans to get advanced degrees by going to night school, thereby lessening the effectiveness of their daily work, in order to get a better position outside when their 50th birthday comes around. I suggest that you consult not the "chiefs" but some of the "Indians" in CIA to gain a true picture of what is involved in this proposed personnel policy.

I repeat once again, Mr. Speaker, that I have no intentions whatsoever of causing any harm to the CIA. I want to do everything I can to help. But I just cannot support legislation to further compound a mystery, and thus I am opposed to this measure.

Mrs. ST. GEORGE. Mr. Speaker, I yield 5 minutes to the gentleman from Kansas [Mr. AVERY].

Mr. AVERY. Mr. Speaker, I urge the adoption of the rule. It has been so well explained I cannot think of anything further I could add. However, I notice the presence on the floor of the majority leader, and would appreciate his attention. I notice the other body was advised yesterday as to how they might proceed to plan for the weeks ahead. It was helpful indeed to learn that their Thanksgiving recess has already been fixed. Their Christmas schedule has already become a matter of record. I wonder if we could be privileged to have the same information in this body.

Mr. ALBERT. Mr. Speaker, will the gentleman yield?

Mr. AVERY. I would be delighted to yield to the gentleman from Oklahoma.

Mr. ALBERT. First of all, this is a matter that would be cleared on both sides of the aisle, but I would like to remind the gentleman that the Veterans' Day vacation in the other body is from November 8 to November 12. That

means Friday, Saturday, and Monday. I would think that we could assume that we might do that well.

Mr. AVERY. That we would have Sunday off and possibly Monday as well?

Mr. ALBERT. I would think so, not committing myself.

Mr. AVERY. Now could the gentleman proceed further?

Mr. ALBERT. Then for Thanksgiving, as I understand it, there will be a recess in the Senate on the 27, 28, and 29 of November. I will take upon my own shoulders the complete responsibility to assure the gentleman that he will have that much time off for Thanksgiving, that is, 3 days.

Mr. AVERY. Will the gentleman proceed from this point on?

Mr. ALBERT. I am not in a position to make a commitment at this time.

Mr. HALLECK. Mr. Speaker, will the gentleman yield?

Mr. AVERY. I yield to our distinguished minority leader.

Mr. HALLECK. I would just like to say to the gentleman, and for all the Members of the House, I have had the greatest solicitude for the Members' convenience, and I realize, of course, the situation that confronts our colleagues, and so far as my own personal situation is concerned, I would like to know in advance what we can figure on and depend on as to the arrangements. I have spoken to the majority leader and to the distinguished Speaker of the House about the whole situation, and as far as I am concerned, I want to say to my friend, the gentleman from Kansas, I shall do all I can to try to work out some advance arrangement for the balance of the year because apparently, we are going to be here until we start on the next session.

Mr. AVERY. Then is it reasonable, Mr. Speaker, to summarize, if I may, what I have heard from the distinguished majority leader and the distinguished minority leader, that the statement in the other body that this session is going to be "back-to-back" with the next session—is this a reasonable assumption that we probably will continue in session to the Christmas holidays? Would the gentleman from Oklahoma care to respond to that?

Mr. ALBERT. I think the gentleman has the same knowledge of the legislative program as the gentleman from Oklahoma.

Mr. AVERY. The gentleman from Oklahoma pays me a great tribute and I am not sure it is deserved.

Mr. ALBERT. I am sure it is true. I am sure all the Members of the House know what legislation is still outstanding which must be acted upon, and I think the statement that the gentleman refers to as having been made in the other body could well be correct. But I want to join the distinguished minority leader in doing everything I can, and I am sure that in saying this I speak for our distinguished Speaker of the House also, in trying to determine when and how much time Members of the House can have off consistent with the legislative responsibilities of the House of Representatives.

19590

CONGRESSIONAL RECORD — HOUSE

October 30

Mr. AVERY. May I say, Mr. Speaker, I may appear to be facetious, but I did not mean to be so. This is getting to be a serious situation. We have all made commitments considerably in advance for this time of the year when we could reasonably assume that we would be in our districts, and it is embarrassing to many of us to have to break our commitments.

Mr. GROSS. Mr. Speaker, will the gentleman yield?

Mr. AVERY. I yield to the gentleman from Iowa.

Mr. GROSS. In any event I wonder if, when this program is firmed up for the remainder of this year, if it might not be announced in the House rather than through the newspapers and over the radio.

Mr. ALBERT. Mr. Speaker, will the gentleman yield?

Mr. AVERY. I yield to the gentleman.

Mr. ALBERT. I think that any announcement that the majority leader will make, and I am sure I am speaking for both sides on this matter, will be made first to the House of Representatives and not first to the press or to anyone else.

Mr. CEDERBERG. Mr. Speaker, will the gentleman yield?

Mr. AVERY. I yield to the gentleman.

Mr. CEDERBERG. Would the distinguished majority leader advise us if it might not be possible rather than to have a new session start on January 3 to have it start later on in the month and to request the President to bring in the state of the Union message and the new budget message late in January because we will not be finished with the old budget anyway until we get the new one. If we can get that, maybe we can get a couple of days vacation.

Mr. ALBERT. Mr. Speaker, will the gentleman yield?

Mr. AVERY. I yield to the gentleman.

Mr. ALBERT. First of all, that would have to be done by a joint resolution or a concurrent resolution because the law requires that the Congress convene on January 3. I think here again it would depend on the legislative situation. Certainly, it would be a convenience to the Members individually, and to me personally, if we could do so. That is as far as I can go at this time with respect to that sort of arrangement.

Mr. COLLIER. Mr. Speaker, will the gentleman yield?

Mr. AVERY. I yield to the gentleman.

Mr. COLLIER. In the light of the urgency of the problems before the Congress this year, is it possible that we might run into this situation during the two national conventions in 1964?

Mr. AVERY. That question should certainly be more properly addressed to one in a position more able to respond than the gentleman now in the well. May I express my appreciation to the gentleman from Oklahoma, and I am sure I speak for all Members present, for the enlightenment we have received today.

I yield back the balance of my time.

Mrs. ST. GEORGE. Mr. Speaker, I have no further requests for time.

Mr. DELANEY. Mr. Speaker, I move the previous question.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

ELECTION TO COMMITTEE

Mr. HALLECK. Mr. Speaker, I offer a privileged resolution and ask for its immediate consideration.

The Clerk read as follows:

Resolved, That MARK ANDREWS, of North Dakota, be, and he is hereby elected a member of the standing committee of the House of Representatives on Interior and Insular Affairs.

The resolution (H. Res. 561) was agreed to.

A motion to reconsider was laid on the table.

CENTRAL INTELLIGENCE AGENCY RETIREMENT ACT OF 1963 FOR CERTAIN EMPLOYEES

Mr. RIVERS of South Carolina. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 8427) to provide for the establishment and maintenance of a Central Intelligence Agency Retirement and Disability System for a limited number of employees, and for other purposes.

The motion was agreed to; accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 8427 with Mr. THOMAS in the Chair.

IN THE COMMITTEE OF THE WHOLE

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. The gentleman from South Carolina [Mr. RIVERS] will be recognized for 1 hour and the gentleman from Massachusetts [Mr. BATES] will be recognized for 1 hour.

Mr. RIVERS of South Carolina. Mr. Chairman, I yield myself such time as I may require.

Mr. Chairman, H.R. 8427 is a bill to give the Central Intelligence Agency a better retirement system for a limited number of its employees.

At the present time, all regular employees of the Agency are covered by the normal civil service retirement system.

Many positions in the CIA do not warrant special retirement treatment of course, but about 30 percent of the total employees work under conditions which clearly require an improved retirement and disability system.

I would like to point out that this legislation establishes no precedent since it was determined that the Agency retirement system should be patterned after that now applicable to the Foreign Service.

Careful examination indicated that the Foreign Service system had sufficient flexibility and other improvements to meet CIA's requirements. The CIA presented convincing proof that those em-

ployees to be covered serve under conditions which are at least comparable with the Foreign Service and in many cases more dangerous and at great personal sacrifice to the employees.

As a member of the CIA Subcommittee of the House Armed Services Committee, I had previously learned a great deal about the activities of the Agency and the sacrifices called for on the part of its employees. During the course of 4 days' extensive hearings on H.R. 8427 before the House Armed Services Committee, Agency witnesses were candid and fully cooperative in presenting their need for this improved retirement system. For reasons of security, I am unable to present the specific situations which demonstrate the need for this new system. It is pertinent to point out, however, that, with respect to this group of employees, all are considered to be on 24-hour duty, 7 days a week, and are obligated in writing to serve anywhere in the world that Agency needs would require.

Upon my initial assignment to the CIA subcommittee, it came as a surprise to me to learn that all Agency employees received only the normal civil service retirement benefits. I had assumed there was a program to afford earlier retirement, such as that available to the Foreign Service or the benefits offered to agents of the Federal Bureau of Investigation, which enables the agent to retire voluntarily at age 50 upon completion of 20 years of service.

The CIA's need to have a young and virile group of career people manning their overseas posts needs no elaboration. I became personally convinced of the need for this type of program as a result of months of briefings presented to the CIA Subcommittee of the House Armed Services Committee. The hearings on H.R. 8427 convinced me that this legislation is the appropriate means to put into effect an improved retirement system.

Now, as to the legislation.

One of the key features is the right of the employee to apply for voluntary retirement upon reaching age 50 if he has a minimum of 20 years of service. Such retirement, however, must be with the consent of the Director, and in special cases where a man's services are still needed he will be required to serve until the Agency's requirements have been met.

Another important feature of this bill is the authority of the Agency to retire people when it is determined that this is the best course of action. In this situation, where the employee is in a grade of GS-14 and above he will, upon being retired, receive an immediate annuity regardless of age. The amount of this annuity in the case of a man with 20 years of service would be 40 percent of the highest average annual salary for any 5 consecutive years. The committee examined this provision most carefully and the bill H.R. 8427 reflects a change we made that in order to qualify for this immediate annuity the individual must have had at least 5 years of what is termed "qualifying service," which means service of a nature which would fit him to be covered by the system.

1968

CONGRESSIONAL RECORD — HOUSE

19591

In addition, he must have had at least 10 years of total service with the Agency.

The committee did not believe that transferees from other agencies should be eligible to qualify for this type of annuity without substantial periods of both qualifying service and general service with CIA. Where the person involuntarily retired is in grade GS-13 or below he may elect, if he has at least 5 years of service with the Agency, to leave his contributions in the fund and draw a deferred annuity at age 60, or he may simply draw out his contributions. In addition he would be granted separation pay based on a month's salary for each year of service, but in no event to exceed a total of 1 year's salary. The committee believes this provision is generally in line with separation compensation available in military service and is not unreasonable where a man has joined the Agency with the expectation of a career and because of shifts in requirements is unable to be retained by the Agency. This separation compensation will permit him a period of readjustment, possibly taking necessary training to equip himself for a position in industry or in another branch of Government.

I believe this new system will be an extremely valuable tool in the management of the Agency and will materially assist in attracting and retaining the extremely high caliber men and women the Agency needs for its demanding programs. As indicated by the published hearings and the report, the Armed Services Committee has looked painstakingly at this proposal and has examined Agency witnesses most carefully. Where necessary, the committee made changes from the original proposal, which you will find in the report.

The cost is reasonable, leveling off at about \$580,000 per year.

Let us turn for a moment to the recent press criticism of the Central Intelligence Agency. Obviously such criticism is not the proper basis to form a judgment on this bill—indeed it is not a proper basis on which to form a judgment of the Agency itself. The scope and ferocity of these press attacks brought a response—not from the Agency which very properly should not and does not respond to press criticism—the response was from the President. He was asked about a recent story on CIA in his press conference on October 9. I quote his answer:

I must say I think the reports are wholly untrue. The fact of the matter is that Mr. McCone (CIA Director) sits in the National Security Council . . . we have worked very closely together in the National Security Council in the last 2 months attempting to meet the problems we faced in South Vietnam. I can find nothing, and I have looked through the record very carefully over the last 9 months, and I could go back further, to indicate that the CIA has done anything but support policy. It does not create policy; it attempts to execute it in those areas where it has competence and responsibility. I know that the transfer of Mr. John Richardson, who is a very dedicated public servant, has led to surmises, but I can just assure you flatly that the CIA has not carried out independent activities but has operated under close control of the Director of Central Intelligence, operating with the cooperation

of the National Security Council and under my instructions . . . I think they have done a good job.

As a member of the CIA Subcommittee of the House Armed Services Committee, I believe I am also in a position to make a judgment on the Agency. In my opinion, I believe the Agency is doing a brilliant job under most trying circumstances.

For those who contend that the Congress fails to exercise supervision over CIA, I would like to state the facts. The Armed Services Committee has legislative jurisdiction over CIA and for many years, the gentleman from Georgia [Mr. VINSON] has appointed a subcommittee whose sole function is to review Agency activities. This subcommittee presently has as its chairman, the gentleman from Georgia, Mr. CARL VINSON, and I am proud to serve under him on this subcommittee. The other Members are: F. EDWARD HEBERT, MELVIN PRICE, CHARLES E. BENNETT, GEORGE HUDDLESTON, JR., LESLIE C. ARENDS, WILLIAM G. BRAY, BOB WILSON, and FRANK C. OSWERS, JR.

As a matter of policy, the subcommittee has endeavored to meet with the Director and other Agency officials at least once a month to conduct an examination of its activities on a worldwide basis. In the course of these hearings we receive substantive intelligence briefings to keep us up to date on happenings throughout the world. It is the purpose of the subcommittee to fully inform itself on all aspects of Agency operations including its organizational structure and personnel practices. The Director of Central Intelligence has explored with the subcommittee the most sensitive of Agency operations in order that the members be fully informed.

At time I, as a member, am concerned with the sensitivity of this information and its serious nature for fear that I might inadvertently endanger someone's life or a highly successful operation.

The Director of Central Intelligence has been most candid with the subcommittee in discussing plans for future activities and we have witnessed a number of significant improvements in the Agency since the current Director has been in office. On occasion the subcommittee has deemed it necessary to conduct thorough reviews of the Agency to assure itself that all possible steps were being taken by CIA and the intelligence community as a whole to insure that adequate intelligence is available to those who must make the policy decisions—further, to insure that policymakers have the benefit of as full information as possible including skilled evaluation of the raw information utilizing thoroughly professional analysis and research.

As to CIA conducting independent operation in pursuance of its own policy, the subcommittee has examined very closely the machinery by which the Agency is in fact responsible to the policymakers. Under the existing procedural machinery, the Agency simply cannot operate independently nor does it in fact operate as a policymaking organ of Government. The Director is directly responsible to the President and estab-

lished procedures insure that the operations of the Agency are in fact coordinated with and responsive to the policies of the Government. I might add that this is true not only at the national level but it is also true at the embassy level in foreign countries where the paramount role of the Ambassador is accepted by all agencies.

However, let us return to H.R. 8427 which is the issue today.

The committee has unanimously supported this legislation, and I urge the Members of the House to judge it on its merits. I am sure most of you will view it favorably.

Before I conclude, I would like to advise the House that I propose to offer an amendment to H.R. 8427 to clarify the kind of duty that must be performed before the Director can designate the individuals who will be permitted to participate in this liberalized retirement system.

I discussed this matter with members of the Rules Committee and members of my committee, and I propose to offer an amendment to section 203 of the bill. Under this section, as it is now written the Director may designate the officers and employees who will be entitled to the benefits of the system. The amendment I will offer would change the language to read as follows:

On page 3, lines 13 to 16, strike out the first sentence of section 203, and substitute in lieu thereof the following language:

The Director may designate from time to time such Agency officers and employees whose duties are determined by the Director to be (1) in support of Agency activities abroad hazardous to life or health or (2) specialized because of security requirements as to be clearly distinguishable from normal Government employment, hereafter referred to as participants, who shall be entitled to the benefits of the system.

Mr. WAGGONER. Mr. Chairman, will the gentleman yield?

Mr. RIVERS of South Carolina. I am constrained to yield to my friend, the gentleman from Louisiana [Mr. WAGGONER].

Mr. WAGGONER. I have been advised that in this proposed legislation there are the usual prohibitions against drawing retirement pay in cases involving personnel who are reemployed by the Government by some other agency; is that correct?

Mr. RIVERS of South Carolina. That is right. The gentleman is right.

Now that is the bill. Let me summarize it for you again:

First. Retirement at the age of 50 with a total of 20 years of service, 5 years of which must have been with the Agency. The employee must apply for the retirement and receive the permission of the Director.

Second. The Director may involuntarily retire individuals and where they are in the grade of GS-14 and above they will be entitled to receive an immediate annuity regardless of age provided, however, they have 5 years of qualifying service and a total of 10 years service with the Agency, and

Third. The Director may retire employees in the grades of GS-13 and be-

19592

CONGRESSIONAL RECORD — HOUSE

October 30

and in such case they will receive at age of 60 a deferred annuity if otherwise eligible.

In addition, they will be entitled to receive separation compensation in the amount of 1 month's salary for each year not to exceed a total of 1 year.

That is the bill, Mr. Chairman.

Mr. HOLIFIELD. Mr. Chairman, will the gentleman yield?

Mr. RIVERS of South Carolina. I yield to the gentleman.

Mr. HOLIFIELD. I would like to compliment the gentleman from South Carolina and his subcommittee; the chairman and members of the full committee, for bringing this bill out. As I understand it, this covers a personnel area which has not been covered heretofore; it affords retirement privileges identical to those in the Foreign Service; is that correct? The grades under grade GS-14 are already covered by the normal civil service retirement regulations.

Mr. RIVERS of South Carolina. The gentleman referred to grades under GS-14?

Mr. HOLIFIELD. Yes, under grade GS-14.

Mr. RIVERS of South Carolina. Not all qualified employees—normally employees are covered by the civil service system. Let us call them agents. Agents without the qualifying service are not covered.

Mr. HOLIFIELD. In other words, agents who do not have the qualifying service under civil service are the ones who are not covered; is that correct?

Mr. RIVERS of South Carolina. That is correct.

Mr. HOLIFIELD. But under this bill they will be covered and the benefits they will draw will be similar or the same as those of people in the Foreign Service.

Mr. RIVERS of South Carolina. That is correct.

Mr. HOLIFIELD. You spoke of the right of the Director to retire agents under certain conditions. Does this give the Director any additional power to fire or hire people besides the power he has already?

Mr. RIVERS of South Carolina. No, but the Director must have this authority.

Mr. HOLIFIELD. Yes, he must have this authority. Your reference to them is to see that they get certain annuities in case they are relieved of their duties?

Mr. RIVERS of South Carolina. That is right—to give them security. You must remember these agents sign a letter before they go on duty that they will serve anywhere on earth, 7 days a week, 24 hours a day. It is a very demanding service.

Mr. HOLIFIELD. That is correct. Many of these people being covered by this bill have served in places where it was dangerous for them. They have assumed duties in espionage which have endangered their lives and, in fact, some of them have lost their lives as a result of this service; is this not true?

Mr. RIVERS of South Carolina. I amighted that the gentleman asked that question. The gentleman has asked a question—if some of these agents are serving in dangerous places and have lost

their lives and are in danger of losing their lives. I wish I could tell this committee the areas where these people are languishing in jails and where they have faced firing squads all over the world. It is a terrifying thing. If you knew what I know, you would say to me that there are a lot better ways of making a living than working for the CIA.

Mr. HOLIFIELD. I am glad the gentleman brought this point out because, as a member of the Joint Committee on Atomic Energy, we have had close relationships with the CIA. We know what the gentleman from South Carolina says is true, that there are people who have served in this organization who are in jail and some have lost their lives. Furthermore, they are also in a situation where they cannot be protected or they cannot be claimed as a member of the CIA in the event they are captured and jailed in a foreign country.

Mr. RIVERS of South Carolina. If I should tell you how many of these agents we have or if I should give you some sort of a number of the agents that we have, the Soviets could merely by a matter of arithmetic figure them out and ferret them out.

For instance, when the Director decides to separate a man he cannot go into court with his case under this bill, because if he did, any espionage person could figure out exactly who these people are, how many they are, and what they do. We cannot permit this. This espionage business is a dangerous business; it is not one that I would be in. We have never been in it before. But, has it ever occurred to you and to the other members of the committee as to the vast system of the Soviets? They have thousands upon thousands upon thousands of agents in this world. We must have this agency and we must give them this benefit.

Let me say this to the gentleman: we permit the Federal Bureau of Investigation employees to retire at an earlier age than other people. Do you know why? It is because they are under such a terrible strain all the time. They must be given this right; otherwise they will shake themselves to pieces. They have to have it, and this organization here must have this.

Mr. HOLIFIELD. I think the gentleman has done a good thing in bringing out this bill. I want to express my support for it. I believe every Member, who knows the workings of this organization, who knows the dedication of these people and has had the privilege of meeting many of these people in the course of their congressional duties, can certainly subscribe to this. I hope this bill will pass unanimously.

Mr. RIVERS of South Carolina. I thank the gentleman.

Mr. JONES of Missouri. Mr. Chairman, will the gentleman yield?

Mr. RIVERS of South Carolina. I yield to the gentleman from Missouri.

Mr. JONES of Missouri. Mr. Chairman, one thing the speaker has not brought out is the wage differential that exists between persons employed in the Central Intelligence Agency as compared with those employed in other agencies of

the Government. I have been informed from what I think is a good source that in the lower echelons of people who are performing clerical and just routine work they are getting salaries above what people doing similar or exactly the same work in other agencies of the Government are getting. They are getting what would be comparable to two grades higher pay for that. Do you have any comment to make on this?

Mr. RIVERS of South Carolina. I do not have a bit of comment to make on it, and I do not believe in it.

Mr. JONES of Missouri. I have this from a source that I think is reliable. I appreciate the fact that this whole Agency has to operate under an aura of great secrecy.

Mr. RIVERS of South Carolina. Why, certainly.

Mr. JONES of Missouri. And sometimes they are inclined to carry it to the ridiculous. For instance, I had an experience, and I am going to relate it in order to emphasize the point I am trying to make. At the time of the U-2 incident I was concerned about what had happened there. I think our Government suffered great damage because of statements that went out at that time which were not true. So, I made an appointment with Mr. Dulles to talk to him about this thing. He tried to explain it to me, but I did not get much information. In his old headquarters they had a picture of the new CIA building. Just out of idle curiosity more than anything else, I said, "Mr. Dulles, how many people will be employed in this new building?" He said, "Oh, we cannot tell you that. That is secret." To me that was an asinine reply to a question, because I think anyone knows that there was no secrecy with regard to the number of people to be employed in that new building out at the Central Intelligence Agency, because anybody who knows anything about trying to estimate the number of employees in a building could have gotten it very well; or for that matter one could count the employees entering and leaving by public highway.

The thing that disturbs me about this bill is the fact that it has been the practice throughout many years for these people to take advantage of their sensitive position and to use it for privileged treatment which is not justified.

I am in sympathy with the people who risk their lives and do things like that. I am not asking you what the salary of those people is, but I have reason to believe that it is a pretty good salary which takes care of some of the hazards and the risks that are involved. I think those things have to be considered here, too. I think your committee should have and should be able to tell me to what heights or depths we are going to go to determine who is included, because unless I am badly mistaken and unless I am badly mistaken in my estimate of the operation of this department in the past, they are going to start reaching down, down, and down to get people up. I have had the experience of observing people quit other departments of the Government to join the Central Intelligence Agency. They have told me, "I can go there and

1963

CONGRESSIONAL RECORD — HOUSE

19593

do exactly the same work that I have been doing," let us say, in the Department of Agriculture "and I will get a much higher salary, because I get the coverage under the CIA." Yet that person stays in this same community and does the same work with no greater responsibility, and he gets higher pay. I do not think that type of employee is entitled to any special consideration just because he is associated with an agency that has a small percentage of its people who are put in these positions of high sensitivity and who are subjected to great risk and, in many instances, have given their lives. I do not think you have given us enough information about these people at the lower levels, who constitute a great majority. I would want some assurance that those people are not going to get further preferred treatment under this bill. I would like to have the gentleman comment on that.

Mr. RIVERS of South Carolina. The gentleman has made a pretty good speech. I do not know where to start to answer his question. I allowed him to talk for 5 minutes. What question does he want me to answer?

Mr. JONES of Missouri. I asked the gentleman first if he knew of the differential in salary between the people employed doing clerical, filing, and typing work, who were getting paid more than those people in the departments?

Mr. RIVERS of South Carolina. I do not know that.

Mr. JONES of Missouri. I think the gentleman should know it. I think his committee should know it. I think the House is entitled to that information.

Mr. RIVERS of South Carolina. The bill clearly points out who would be covered.

Mr. JONES of Missouri. I respectfully point out that it does not.

Mr. RIVERS of South Carolina. I must be stupid, because I have tried to explain that to the gentleman.

Mr. JONES of Missouri. I do not think the gentleman is stupid. I think sometimes the committee is overawed by the great secrecy under which this agency operates and some of the people have taken advantage of their position to keep secret some things that the Congress and the gentleman's committee particularly are entitled to know.

Mr. RIVERS of South Carolina. I will tell the committee what I will do. The gentleman may go back and ask the counsel of our committee to answer any of those questions; and he can answer them a thousand times better than I can.

Mr. JONES of Missouri. Does the gentleman mean that these things are so secret that we cannot put them on record?

Mr. HARDY. Mr. Chairman, will the gentleman yield?

Mr. RIVERS of South Carolina. I yield to the gentleman from Virginia.

Mr. HARDY. Mr. Chairman, as a member of the subcommittee I may be able to shed a little bit of light on the point that the gentleman from Missouri has raised. As far as I can recall from the testimony the employees who are covered under the normal civil service

regulations are paid on exactly the same basis as employees in other agencies performing the same duties. We are not talking about those employees in this bill. This bill covers only the employees who are engaged in special types of work. With respect to other kinds of employees—the average kind—let me say to the gentleman that a few years ago I employed as a staff member of my subcommittee, an attorney who was then on the legal staff of CIA. I paid him a little bit more money than he was making down there. I am sure that he had been getting at CIA exactly the same pay he would have received for similar work in any other Federal agency. I hope that will help the gentleman on the point that he was making.

Mr. RIVERS of South Carolina. May I say this to the gentleman: The people who do similar work are covered by the regulations of the civil service.

Mr. JONES of Missouri. Mr. Chairman, I do not agree with that for this reason, because I have had specific instances and have known people who have quit jobs in one department in order to go to work for the CIA. They have told me that they were doing exactly the same type of work and getting paid at a higher grade than they were in the department that they quit.

Mr. RIVERS of South Carolina. I am surprised to hear that.

Mr. MacGREGOR. Mr. Chairman, will the gentleman yield?

Mr. RIVERS of South Carolina. I am pleased to yield to the gentleman.

Mr. MacGREGOR. Mr. Chairman, I was particularly pleased by the comments of the gentleman from South Carolina with respect to the nature of his committee's knowledge of the work of the Central Intelligence Agency. This is particularly so because from time to time over the past 3 years we have heard complaints in this body and in the other body about the need for the establishment of a watchdog committee which, in my opinion, is not indicated from my knowledge of the existing committees of the Congress. I should like to call the gentleman's attention to a response given by President Kennedy to a question at a press conference earlier this month when he said the following:

There is a congressional committee in the House and one in the Senate composed of members of the Appropriations Committee and the Armed Services Committee, and they meet frequently with Mr. McCone, and he also testifies before the Foreign Relations Committees of House and Senate and the general Armed Services Committees. And I think that Congress through that organization has the means of keeping a liaison with him.

I should like to ask the gentleman from South Carolina [Mr. RIVERS] whether he agrees that the committee on which the gentleman serves and other committees mentioned by the President do maintain effective liaison over the work of the Central Intelligence Agency?

Mr. RIVERS of South Carolina. We do it all the time. The gentleman from Georgia [Mr. VINSON] is chairman of that subcommittee and its members meet all the time. We get all the information

they have. We get a briefing on the world situation. They are totally frank. They present some very, very brilliant information before our subcommittee. They know how to figure out intelligence. It is quite an impressive thing.

Mr. MacGREGOR. I thank the gentleman for his response.

Mr. JONES of Missouri. Mr. Chairman, will the gentleman yield further?

Mr. RIVERS of South Carolina. I yield to the gentleman from Missouri.

Mr. JONES of Missouri. Will the gentleman from South Carolina answer one question for me? I want to know if the gentleman thinks that this was justified as a matter of secrecy as to the number of employees that are working in this CIA building here in Washington?

Mr. RIVERS of South Carolina. I think so.

Mr. JONES of Missouri. The gentleman thinks that should be secret?

Mr. RIVERS of South Carolina. I think so.

Mr. ASHBROOK. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count. One hundred and nine Members are present, a quorum.

Mr. BATES. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, H.R. 8427 is a bill unanimously reported by the Armed Services Committee. Its purpose is to establish an improved retirement system for those employees of the Central Intelligence Agency who are concerned with the conduct and support of intelligence activities abroad.

The Congress has long countenanced the policy of providing early retirement for certain classes of Government employees. This policy is not one of favoritism, but one of realism. It takes account of the fact that some jobs are more hazardous and more trying, than others. An appreciation of the risks assumed by special agents of the FBI and other Government employees engaged in the apprehension and detention of criminals, led to the Congress providing early retirement for them. The arduous conditions—climatic and otherwise—under which Foreign Service officers labor, dictated the enactment of similar early retirement provisions. In the case of those CIA officers and employees engaged in the conduct and support of intelligence activities abroad, both criteria—hazardous and onerous working conditions—obtain. This is obviously a young man's business and for the sake of consistency and justice, provision must be made to accord to this limited number of CIA employees the realistic treatment which presently governs the early retirement of FBI agents and Foreign Service officers. The voluntary retirement features of the bill meet this objective by providing that an employee who is at least 50 years of age and has rendered 20 years of service may, with the consent of the Agency, be retired on an immediate annuity.

Since the Civil Service Retirement Act continues to be appropriate for the CIA employees, this

19594

CONGRESSIONAL RECORD — HOUSE

October 30

bill will apply only to those actively engaged in intelligence work overseas. For security reasons, the various position titles of those to be covered have not been spelled out in the bill itself, but the restricted coverage has been made explicit in the very title of the bill and in its statement of purpose.

The types of specialties needed by the Central Intelligence Agency vary, not only with the sophistication of intelligence collection techniques, but with changes in world conditions generally. The advent of the U-2 and the concomitant need for highly trained photo-interpreters, is a clear example. But with the progress of science and the imaginative technological advances in this area some specialized skills used by CIA officers in the field may become obsolete. Such men often find themselves involved in the Agency's necessary programs of managed attrition. Authority was therefore granted to provide such individuals who are involuntarily retired either separation pay or immediate annuities. Immediate annuities are available only to GS-14's and above who have at least 10 years' service with the Agency, 5 of those years in a career primarily oriented toward the conduct and support of intelligence activities abroad. Those involuntarily retired who are not eligible for immediate annuities will be provided with separation pay which, like the annuity, is proportioned to length of service rendered.

Though the retirement provisions of this bill represent new coverage for some CIA employees, they are not novel to the Congress. Identical provisions obtain for Foreign Service officers. Nevertheless, each section of this bill was carefully analyzed to confirm that it was appropriate and necessary. In the course of 4 days intensive hearings the committee found that a number of changes were warranted. These changes have been made, and as a result we have before us now an excellent bill which I am proud to support—a bill which deserves your consideration. One change in particular was occasioned by security considerations. Because of the sensitivity of information pertaining to the mission of the CIA abroad, a section was added to give finality to determinations made by the Director under this act. Similar provision exists in the Atomic Energy Act and is designed to protect highly classified information from disclosure in the course of an open trial or hearing.

Other changes were made which tightened the bill and which reflected the years of experience which the Foreign Service has had in administering an identical system.

I believe that H.R. 8427 is in line with consistent congressional policy and that it represents an equitable retirement system for those involved in this arduous work. In addition, it provides to the Central Intelligence Agency a method for keeping its service young and up to date; and the enactment of this bill will demonstrate to those whose thankless task it is to be in the front lines of our intelligence-collection service that their work and their welfare are not unheeded by the Congress of the United States.

Mr. HARDY. Mr. Chairman, will the gentleman yield to me at this point?

Mr. BATES. I would be pleased to yield to the gentleman from Virginia.

Mr. HARDY. In connection with the question raised by the gentleman from Missouri a moment ago with respect to the extent to which the subcommittee went into this matter, would the gentleman agree that in hearings with the CIA the subcommittee went very deeply into this matter of the limited number of employees to be covered under this bill?

Mr. BATES. That is correct.

Mr. HARDY. And I think the point that the gentleman from Missouri raised is a very important point. But I think it is also important that the Members of the Congress know that the subcommittee did receive assurances to the effect that only persons in very special kinds of assignments would be covered.

Mr. BATES. With reference to this particular bill.

Mr. HARDY. That is correct. I thank the gentleman.

Mr. JONAS. Mr. Chairman, will the gentleman yield?

Mr. BATES. I yield to the gentleman from North Carolina.

Mr. JONAS. I wish the gentleman would tell me where I can find that in the bill.

Mr. BATES. What is that?

Mr. JONAS. The limitation of coverage to hazardous foreign service. It may be in the bill, but I cannot find it.

Mr. BATES. I may say that an amendment will be offered on this point. The members of the subcommittee after we considered this particular aspect at considerable length in the committee were satisfied in our minds as to what the CIA intended. When we went before the Rules Committee they raised the same question that the gentleman from North Carolina now poses. We wrote an amendment which we offered to the subcommittee, and we also cleared it with the Rules Committee. With the exception of the gentleman from California [Mr. SMITH] they are presently in accord with what I have previously stated. This will be discussed when we get under the 5-minute rule.

Mr. JONAS. Can the gentleman tell me where I might find a copy of the amendment?

Mr. BATES. I will lend the gentleman my copy of the amendment.

Mr. LINDSAY. Mr. Chairman, will the gentleman yield?

Mr. BATES. I yield to the gentleman from New York.

Mr. LINDSAY. For how long do they have to serve overseas?

Mr. BATES. In order to obtain this annuity an individual must have 5 years in this particular group. If he has 10 years' total he could retire on the basis of 2 percent per year.

Mr. LINDSAY. Five years of overseas assignment?

Mr. BATES. He must be in that work for at least 5 years.

Mr. RIVERS of South Carolina. Mr. Chairman, I yield the balance of the time remaining to the gentleman from Florida [Mr. BENNETT].

(Mr. BENNETT of Florida asked and was given permission to revise and extend his remarks.)

Mr. BENNETT of Florida. Mr. Chairman, as a member of the Armed Services Committee and as a member of the CIA Subcommittee, I rise in support of H.R. 8427.

This bill for CIA is in fact long overdue. The bill will improve the retirement system for those employees of the Agency who are actively engaged in the conduct and support of intelligence activities abroad. It is estimated that less than 30 percent of the Agency employees will be brought in under this new system.

Today, all employees of the Agency are under the normal civil service retirement plan and the majority of the employees will remain under that system. A service which is continuously rotating its people abroad requires fundamentally a younger group of people than is normally found in a Washington headquarters.

Foreign Service early recognized the need for a retirement system designed to meet the needs of an overseas service, and beginning in 1924 the Congress recognized the validity of these special needs.

CIA is not asking for something special or unique in this bill. The possibility of improving the retirement system was studied intensively and it was determined that the system developed by the Congress for the Foreign Service over the last 30 years would meet Agency objectives. Consequently, this bill gives to a fraction of the total Agency personnel a retirement system substantively identical to the Foreign Service.

During 4 days of hearings all aspects of this bill were examined intensively by the committee. A review of these hearings and the report indicates clearly that most careful thought was given to each aspect of the bill. A number of amendments were made which strengthen and tighten the bill. The bill was unanimously reported and it is to the merits of this bill which the Members should address themselves.

My membership on the CIA Subcommittee has given me considerable insight into the personnel problems and the management aspects of the intelligence business. It may well be that the Agency has made some mistakes, but we all make mistakes. On the other hand, the Agency has been tremendously successful in providing advance information on many aspects of world events. I am convinced that our policymakers are getting good intelligence from CIA and the entire intelligence community.

I have listened with great interest to the problems of CIA operators collecting intelligence in the field. These men and women I have found to be truly dedicated to their tasks, and the Nation should be grateful for their efforts. This bill is essential to maintain the high quality of the service of which these people are a part. We must give the Agency the tools it needs to accomplish the extremely difficult mission which it is assigned.

I call upon you to vote for this bill which is recommended to you by all members of the Armed Services Committee and not to vote for irresponsible

1963

CONGRESSIONAL RECORD — HOUSE

19595

headlines appearing in portions of our

Chairman, in concluding my remarks I would like to say there have been from time to time in the press and among individual Members of the House and others comments with regard to the necessity or the validity of adding another CIA committee. I think this is primarily because most Members of the Congress, or at least most members of the press and the public generally do not realize there are committees of this type in the House and Senate at the present time. So I would think, if questions are in the minds of Members of Congress, it might be an appropriate thing for these Members of the Congress to treat the Committee on Armed Services and its CIA subcommittee just as they treat every other committee of the Congress and address to them the questions they have with regard to employment policies with regard to any other policies they may have, and in this way perhaps some of this unnecessary secrecy can be removed. There is a degree of secrecy necessary in the CIA, but there is also a large area where there is no real necessity for secrecy.

I think Members of Congress are mostly interested in seeing to it that the books are properly handled and things of this type. Things of this type can be brought to the Central Intelligence Agency subcommittee and can be properly handled. I hope in the future Members of Congress when they hear about subject dealing with the Central Intelligence Agency and have a question about it will address their question to the staff of the committee or to the committee as a whole and to the gentleman from Georgia, Chairman VINSON, chairman of the subcommittee and of the whole Committee on Armed Services. I think you will get intelligent answers then to the questions you ask. Perhaps by eliminating this frustration we may not only serve the CIA but, more importantly, may serve to strengthen our own country.

Mr. ARENDS. Mr. Chairman, I yield myself such time as I may desire.

Mr. Chairman, our Committee on Armed Services has had a subcommittee on the Central Intelligence Agency for many years. As a member of that subcommittee since its inception I have become somewhat familiar with the nature of the Agency's organization and its manifold activities. Our subcommittee has regularly inquired into the CIA's operations and from time to time have made specific inquiry into some specific aspect of its activities. Whenever a question would arise as to what the CIA had been doing in some particular area, our subcommittee would quietly but thoroughly look into it.

Naturally, all our subcommittee inquiries, investigations, and briefings were in executive session. Naturally, no reports have been issued as to our findings and recommendations. To do so would destroy the effectiveness of the Agency, and the importance of this Agency's work to our country's security cannot be too strongly emphasized.

This is not to say that the Agency has been without any congressional supervision. Not only has our subcommittee been scrutinizing its operations, it has likewise been scrutinized by the Appropriations Subcommittee, as well as the subcommittees of the Senate.

I am confident that every member of the subcommittees that has dealt with the CIA will agree that Director John McCone and his deputies have at all times been responsive to the questions we have raised. They have not hesitated to give us details and to take us into complete confidence. Nor have they hesitated to admit to possible error and their eagerness to improve upon their methods of obtaining information and evaluating it. Anyone familiar with the simplest type of detective work readily recognizes how readily errors occur in ferreting out the facts. The gathering of factual information on a worldwide scale, and being certain that the information is factual and not just conjectural, presents problems beyond description.

For my part, I believe that in the CIA we have one of the finest intelligence agencies in the world. I should also like to say that I do not believe anywhere will be found people more dedicated to the service of our country than Director McCone and the people who serve under him.

There is one thing more I should like to emphasize with respect to the CIA. Contrary to what we read and hear from time to time, the CIA does not pursue an independent foreign policy. The agency does not make policy. It simply gathers the facts upon which policy may be based. It simply carries out orders dictated by those who make policy. If there is an inconsistency, or a seeming inconsistency, between policy and what the CIA may be doing, it arises not because of the CIA acting independently.

Our subcommittee has not only reviewed the operations of the CIA, but we have also looked carefully into the machinery by which the CIA activities are coordinated within and between other departments of Government.

While all this is not directly related to the bill before us, I felt at least something should be said concerning the operations of the CIA generally by those of us who have had opportunity to regularly study its activities.

As has been pointed out, the bill before us was reported unanimously by our committee. What we are proposing here is not new. We are in effect simply extending to some of the employees of the CIA the same type of retirement system as we have had for the Foreign Service.

We established a special retirement system for the FBI and for the Foreign Service in recognition of the extraordinary hazardous nature of the work and the uniqueness of the service itself. Assignments overseas are not at best the most desirable, particularly for any extended period of time. And many of these assignments are necessarily in unhealthy climates and in places where

living conditions are no more than tolerable.

In addition, there are all the dangerous aspects involved in connection with intelligence operations abroad. One is frequently under great pressure and certainly not able to live a normal life. It requires a certain type of people to undertake intelligence assignments in remote places and sometimes unfriendly areas.

The purpose of this legislation, to provide for the voluntary retirement of some employees at the age of 50 with 20 years service, is not solely to help those already in the service but to encourage others to dedicate themselves to this type of work. By this legislation we seek to insure a continuing virility in one of the most important agencies of Government.

I urge the enactment of this bill.

Mr. MacGREGOR. Mr. Chairman, will the gentleman yield?

Mr. ARENDS. I am pleased to yield to the gentleman.

Mr. MacGREGOR. Mr. Chairman, it is frequently said that there needs to be a watchdog committee established by the Congress to oversee the activities of the Central Intelligence Agency. It is said, for example, that such a group is needed, consisting of House and Senate Members of long seniority and demonstrated responsibility. I should like to ask the distinguished gentleman from Illinois whether or not there is not already in existence in the Congress a committee, or committees, consisting of Members of long seniority and demonstrated responsibility to oversee the activities of the Central Intelligence Agency.

Mr. ARENDS. The answer to that is "Yes." As I said in my talk a moment ago, a subcommittee of the Armed Services Committees of the House and Senate and the subcommittee of appropriations, go into all matters concerning the CIA, and it is my opinion that these committees do as good a job as we possibly can. If our present committees were to be enlarged into a so-called watchdog committee composed of Members of the House and Senate, I think it would soon get out of hand with the real possibility that information of the most secret nature might soon become public information and no longer be a secret matter. I would prefer our present practice. I think we do a thorough job. I must say, in commendation of the CIA that when they appear before us, they are very frank, honest, and sincere and at all times ready to reply in detail to any inquiry of any kind whenever we request it.

Mr. MacGREGOR. Secondly, it is said by some of little knowledge of the existence of the Armed Services Committee and the Appropriations Subcommittee, that a watchdog committee is needed so that Members of Congress would be kept informed of the general activities of the CIA. You are informed at the present time, are you not?

Mr. ARENDS. We certainly are informed. Our chairman, the gentleman from Georgia [Mr. VINSON], whenever something comes up, frequently requests

19596

CONGRESSIONAL RECORD — HOUSE

October 30

the CIA to come before us in closed session and the matter is thoroughly discussed and analyzed.

Mr. MacGREGOR. It is further alleged that such a watchdog committee is needed to oversee the policies of the CIA, the implication being that the CIA is a policymaking body. It is not, is it?

Mr. ARENDS. Such an impression is erroneous, indeed. I pinpointed that just a moment ago. The CIA is not a policymaking body. It is simply an implementing and factfinding group. Policy is made by those who are in authority to make policy.

Mr. MacGREGOR. Mr. Chairman, I thank the gentleman from Illinois for his elucidation.

Mr. RIVERS of South Carolina. Mr. Chairman, I have no further requests for time.

Mr. BATES. Mr. Chairman, I yield such time as he may consume to the gentleman from Iowa [Mr. GROSS].

(Mr. GROSS asked and was given permission to revise and extend his remarks.)

Mr. GROSS. Mr. Chairman, if I may have the attention of the gentleman from Illinois [Mr. ARENDS], I would like to compliment the House Armed Services Committee on being able to get any and every type of information which they wanted from the Central Intelligence Agency. That has not been the experience of some other committees of Congress.

Mr. Chairman, I would have appreciated it had the gentleman went on today and told us who in the Cuban Bay of Pigs fiasco fell flat on their collective or individual faces. I would have appreciated hearing an account of why the CIA's man, Richardson, was removed from Vietnam if the CIA is not dealing in policy in that country.

Mr. Chairman, it was my understanding that Mr. Richardson was brought back from Vietnam because he was trying to establish some kind of a policy. I hope that some day, when we do not have anything else to do in the House, that members of the Armed Services Committee will tell us of some of the things that we common garden variety Members of Congress have been totally unable to learn about the operations of this Agency of Government.

Mr. Chairman, let me say that the CIA at one time came before a committee of which I am a member, the Committee on Post Office and Civil Service, asking for additional supergrades. We asked the representatives of the CIA how many supergrades they had at that time. The answer was, "We cannot tell you," although this was an executive session. I said, "Do you mean to tell the committee you cannot divulge how many employees you have in categories 16, 17, 18?" They said, "No, we cannot tell." I said, "We are not asking for job descriptions, we do not ask you for names, we simply ask you for the number of employees in the three categories." My friend, the gentleman from Michigan [Mr. JOHANSEN] is present on the floor of the House and I am sure the gentleman will corroborate what I say if there is any doubt.

Mr. Chairman, we adjourned the meeting because we could not even find out how many supergrades they had. In a day or two—I think it was the next day—we were advised that they would drop their cloak of secrecy to tell us how many persons they had in those grades. So they gave us the information, but we had to go through two meetings in order to get just the number of bodies in those three categories, grades 16, 17, and 18.

Mr. RIVERS of South Carolina. Mr. Chairman, will the gentleman yield?

Mr. GROSS. I yield to the gentleman from South Carolina.

Mr. RIVERS of South Carolina. In the first instance, when you asked them how many they had on the payroll, they should have told you. I think it was ridiculous not to have told you.

Mr. GROSS. We are dealing in part with the same sort of thing in this bill. I will tell you why. In the report accompanying the bill you do not have a single letter, or the usual letters from a department or agency of Government in support of or in opposition to this legislation. You have nothing whatever from the Chairman of the Civil Service Commission who administers the Government retirement fund. And, let me tell Members of the House that you had better begin to be concerned about the retirement fund.

Mr. Chairman, I favor certain provisions of this bill, but I warn you that the Government retirement fund is today more than \$38 billion in the red. I did not say "millions." I said billions; \$38 billion in the red.

In the last fiscal year retirement fund went \$4 billion in the red. You had better begin to be concerned about how you handle retirement from here on out, because somebody, and soon, is going to have to put money into the fund in order to pay out any retirement.

Mr. Chairman, I could hardly believe it when I picked up this bill over the last weekend and read this one sentence:

The Director may designate from time to time such Agency officers and employees, hereafter referred to as participants, who shall be entitled to the benefits of the system.

I could not believe that a retirement bill could come out of a committee as unlimited as that.

Sure, you are going to offer an amendment now to partially close the door. But with one hand you are going to close the door and with the other you are going to open it again with the amendment which you propose to offer.

I am going to offer a substitute to your amendment to keep that door closed.

I support the proposal to give proper consideration to those engaged in work hazardous to life and health, but there I want to end. I am not going to give the Director of the CIA the authority to interpret what is normal employment, to open the door again, and perhaps give an unjustified number of people on fast retirement who may be completely undeserving.

So I will offer a substitute to the amendment and vote against the bill if the substitute fails.

Mr. BATES. Mr. Chairman, I yield such time as he may desire to the gentleman from New York [Mr. REID].

Mr. REID of New York. Mr. Chairman, I rise in support of H.R. 8427 to create a Central Intelligence Agency retirement and disability system for a limited number of employees. It is high time that the Central Intelligence Agency should have a career retirement system similar to the one that the foreign service presently enjoys.

There is a clear need to establish and maintain a young career intelligence service. This bill will facilitate that purpose.

Equally, Mr. Chairman, I would like to pay tribute to the men and women of the Central Intelligence Agency who frequently serve at the risk of life and limb in difficult parts of the world. Their service, which goes unpublicized for the most part, should be recognized by the Congress of the United States and their loyalty, their dedication, and their professional character should be backed up by a meaningful career service and retirement system.

Occasionally Mr. Chairman, points are raised that the CIA operates independently of the chief of missions. Just by way of clarification I would like to read from one of the Executive orders bearing on this so that there can be no lack of clarity on the fact that CIA in any embassy is subject to the Ambassador. Former President Eisenhower on November 8, 1960, issued a memorandum which I will excerpt from States:

It is my desire that all appropriate steps be taken to assure that the chief of the U.S. diplomatic mission is effective in discharging his role as the representative of the President. The chief of the mission shall have and exercise affirmative responsibility for the coordination and supervision of all U.S. activities in the country to which he is accredited.

Further, former President Eisenhower in this memorandum said:

It is my desire that the Chief of Mission be made fully aware of his responsibilities and authority in respect to U.S. activities.

The final point in this Executive order, that has been continued, I believe, by President Kennedy, states explicitly that the Ambassador:

Will report promptly to the President as to any matter which he considers to need correction and with respect to which he is not empowered to effect correction.

It is I believe plain that under the Executive orders of the past administration and the present administration, the Central Intelligence Agency and its representatives are responsive to the President and to his personal representative, the Ambassador.

In a word, Mr. Chairman, there is a definite need for this legislation today. It will mean a great deal to the spirit of the Central Intelligence Agency. These men and women deserve well of the United States. It is my hope that the Congress will enact this legislation.

1960

CONGRESSIONAL RECORD — HOUSE

October 30

erving plus so much of his annuity payable under this Act which when combined with such salary does not exceed during any calendar year the basic salary such annuitant was entitled to receive on the date of his retirement from the Agency. Any such reemployed annuitant who receives salary during any calendar year in excess of the maximum amount which he may be entitled to receive under this paragraph shall be entitled to such salary in lieu of benefits hereunder.

(b) When any such retired annuitant is reemployed, the employer shall send a notice to the Agency of such reemployment together with all pertinent information relating thereto, and shall pay directly to such annuitant the salary of the position in which he is serving.

(c) In the event of any overpayment under this section, such overpayment shall be recovered by withholding the amount involved from the salary payable to such reemployed annuitant, or from any other moneys, including his annuity, payable in accordance with the provisions of this Act.

PART I—VOLUNTARY CONTRIBUTIONS

SEC. 281. (a) Any participant may, at his option and under such regulations as may be prescribed by the Director, deposit additional sums in multiples of 1 per centum of his basic salary, but not in excess of 10 per centum of such salary, which amounts together with interest at 3 per centum per annum, compounded annually as of December 31, and proportionately for the period served during the year of his retirement, including all contributions made during or for such period, shall, at the date of his retirement and at his election, be—

(1) returned to him in lump sum; or
(2) used to purchase an additional life annuity; or

(3) used to purchase an additional life annuity for himself and to provide for a cash payment on his death to a beneficiary whose name shall be notified in writing to the Director by the participant; or

(4) used to purchase an additional life annuity for himself and a life annuity commencing on his death payable to a beneficiary whose name shall be notified in writing to the Director by the participant with a guaranteed return to the beneficiary or his legal representative of an amount equal to the cash payment referred to in subparagraph (3) above.

(b) The benefits provided by subparagraphs (2), (3), or (4) of paragraph (a) of this section shall be actuarially equivalent in value to the payment provided for by subparagraph (a)(1) of this section and shall be calculated upon such tables of mortality as may be from time to time prescribed for this purpose by the Director.

(c) In case a participant shall become separated from the Agency for any reason except retirement on an annuity, the amount of any additional deposits with interest at 3 per centum per annum, compounded as is provided in paragraph (a) of this section, made by him under the provisions of said paragraph (a) shall be refunded in the manner provided in section 241 for the return of contributions and interest in the case of death or separation from the Agency.

(d) Any benefits payable to a participant or to his beneficiary in respect to the additional deposits provided under this section shall be in addition to the benefits otherwise provided under this Act.

Mr. RIVERS of South Carolina (interrupting reading of the bill). Mr. Chairman, I ask unanimous consent that the bill be considered as read and open at any point to amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from South Carolina?

There was no objection.

AMENDMENT OFFERED BY MR. RIVERS OF SOUTH CAROLINA

Mr. RIVERS of South Carolina. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. RIVERS of South Carolina: On page 3, lines 13 to 16, strike out the first sentence of Sec. 203, and substitute in lieu thereof the following language: "The Director may designate from time to time such Agency officers and employees whose duties are determined by the Director to be (1) in support of Agency activities abroad hazardous to life or health or (2) so specialized because of security requirements as to be clearly distinguishable from normal government employment, hereafter referred to as participants, who shall be entitled to the benefits of the system."

Mr. RIVERS of South Carolina. Mr. Chairman, the purpose of this amendment is to establish legislative criteria by which the Agency would determine those employees who would become participants in this system. The committee during hearings examined very carefully the question of what type of employees should be covered and which employees should remain under normal civil service retirement.

It was made clear that the purpose was to cover only career employees whose duties and responsibilities are predominantly concerned with the conduct and support of intelligence activities in foreign countries. It was also developed in the hearings, and with actual cases as examples furnished in executive sessions, that career employees whose duties are so specialized that they are placed at an unusual disadvantage when required to seek other employment would also be covered by this system.

A significant number of these actual cases were furnished the committee in the executive hearings to illustrate the types of employees who would be covered. One of the threads running through these cases was the hazard both to person and to health. Employees as well as their dependents have contracted diseases which would rarely, if ever, be found in the United States. We heard about cases where employees were wounded or killed by gunfire, and in some cases imprisoned.

In certain phases of the Agency's activities there are requirements for unusual specialties requiring long years of arduous training for which skills there could be no utilization in normal employment pursuits.

We learned of certain situations where, through no fault of the employee, his skills and he himself, became excess to the needs of the Agency or for certain reasons he could no longer be utilized effectively by the Agency. These are the people who will be covered—not the clerk, analyst, or researcher who spends his career in Washington.

In furtherance of the objective of concisely stating these criteria and furnishing statutory guidelines to the Director in selecting participants without at the same time imposing undue rigidity, language has been developed which is satisfactory to those members with whom I have consulted and is also agreeable to

other members of the Armed Services Committee with whom I have consulted.

The specific language was inserted in section 203 and provides that the Director may designate employees "whose duties are determined by the Director to be (i) in support of Agency activities abroad hazardous to life or health or (ii) so specialized because of security requirements as to be clearly distinguishable from normal Government employment." I believe this language fulfills the objective desired and recommend it for inclusion.

Specifically on page 3 of H.R. 8427, at lines 13 to 16, strike out the first sentence of section 203 and substitute in lieu thereof the following language:

The Director may designate from time to time such Agency officers and employees whose duties are determined by the Director to be (1) in support of Agency activities abroad hazardous to life or health or (2) so specialized because of security requirements as to be clearly distinguishable from normal Government employment, hereafter referred to as participants, who shall be entitled to the benefits of the system.

AMENDMENT OFFERED BY MR. GROSS

Mr. GROSS. Mr. Chairman, I offer a substitute amendment.

The Clerk read as follows:

Amendment offered by Mr. GROSS as a substitute for the amendment offered by Mr. RIVERS of South Carolina: On page 3, beginning on line 13, strike the first sentence and insert the following:

"Sec. 203. The Director may designate from time to time such agencies, officers, and employees whose duties are determined by the Director to be in support of agency activities abroad or in this country that are hazardous to life or health."

(Mr. GROSS asked and was given permission to revise and extend his remarks.)

Mr. GROSS. Mr. Chairman, as I said before, the amendment offered by the gentleman from South Carolina in my opinion closes the door and then reopens it. I am not willing to leave to the Director of the CIA the full determination of normal Government employment. The language also reads to this effect, "so specialized because of security requirements." I do not know of any employee in the CIA who is not considered to be employed in a security agency. Therefore, they could all come under this language "so specialized because of security requirements." Why would not every employee of the CIA be under that label, definition and interpretation? As I said before, I am perfectly willing to provide a special retirement program for those who are engaged in work that is hazardous to life or health, but I am not willing to leave it to the Director of the CIA to include anybody else in this fast retirement program. That is the import of my amendment. It does not change the remainder section 203.

Mr. CORBETT. Mr. Chairman, will the gentleman yield?

Mr. GROSS. I yield to the gentleman.

Mr. CORBETT. I want to commend the gentleman for this substitute amendment that he has offered which would tighten up a very loose arrangement. In the first place, taking this kind of action

1963

CONGRESSIONAL RECORD — HOUSE

19601

without real deep consideration by the committee handling pensions is unusual.

Second, granting this discretionary power to one person in the CIA, the Director, to determine who shall get the pension protection and who shall not is a discretion that should not be in the hands of one individual. But if it has to be, this amendment of the gentleman from Iowa should be adopted because it at least puts some restrictions upon this discretionary authority. I commend the gentleman and support the substitute amendment that he has offered.

Mr. GROSS. I thank the gentleman. I am sure the gentleman being the ranking minority member of the House Committee on Post Office and Civil Service will also agree with me that we must watch carefully from here on out as to the number of persons and the expenditures that are made from the retirement fund because, I repeat, it is \$38 billion in the red and going deeper in the red by millions of dollars every year.

Mr. CORBETT. And as this bill stands, you would not know how many are going to be able to draw on the pension—whether it is hundreds or thousands or what the figure might be; is that not correct?

Mr. GROSS. That is correct.

Mr. CORBETT. I think both in the interest of the fund and in the interest of fairplay for all the rest of the employees whose paychecks contribute to this retirement fund that this restriction ought to be passed.

Mr. GROSS. I again thank the gentleman from Pennsylvania, who is a veteran member of the Post Office and Civil Service Committee and who takes a leading part in the writing of all other retirement legislation.

Mr. BATES. Mr. Chairman, I rise in support of the amendment and in opposition to the substitute.

In the course of our hearings the doubts that were expressed by the gentleman from Pennsylvania and the gentleman from Iowa were also entertained by the members of the subcommittee. What they have said on this floor today is similar to the same statements which we ourselves made when we were in committee. Contrary to what the gentleman from Pennsylvania said, we did give this matter deep consideration. We went into it very thoroughly. So, when the representatives of the CIA came before us we asked them specifically what they had in mind relative to these unusual individuals to whom would accrue these retirement benefits. They spelled these things out in detail not only with reference to those engaged in hazardous work but also those engaged in fields so specialized that they were very difficult to obtain. Upon the completion of their remarks the members of our committee were unanimously satisfied with the answers to the questions and we understood fully who was to receive the entitlements of this particular bill.

Mr. CORBETT. Mr. Chairman, will the gentleman yield?

Mr. BATES. I yield to the gentleman from Pennsylvania.

Mr. CORBETT. I would like to ask the gentleman, if he can, to say what are

the specialized fields. The gentleman's amendment says here that if they engage in any activity abroad or in this country which will prove a hazard to life or health.

Mr. BATES. I understand the gentleman's question. Mr. Chairman, this is not the first time on this floor I have been in this kind of a position where the answer to the question—and the gentleman from Pennsylvania should know this—would impair the national security.

Mr. CORBETT. That is why I asked the gentleman in those words.

Mr. BATES. I will be glad to give this information to the gentleman.

Mr. CORBETT. I said if the gentleman could answer.

Mr. BATES. I will be glad to give this information to the gentleman personally.

Mr. CORBETT. Could you imagine some case that would not be covered by this?

Mr. BATES. Yes indeed, and I will be glad to give the information to the gentleman.

Mr. RIVERS of South Carolina. I can imagine one, and I will be glad to give it to you. We need electronics experts and people with unusual skills requiring all kinds of training.

Mr. CORBETT. If you need them, why do you retire them early?

Mr. RIVERS of South Carolina. Because the skills may disappear.

Mr. CORBETT. They may do what?

Mr. RIVERS of South Carolina. The need for them may disappear. That is why.

Mr. BATES. Mr. Chairman, I still have the floor here.

I would like to say that we did go into this matter very fully. Both on the record and off the record we were told of the type of individuals who do this work and the nature of the work which they perform. We were satisfied as representatives of this Congress with the answers which were given to us. Although we originally had certain doubts, when it was all over that doubt was dispelled. It seems to me if this Congress is to take action today, it should resolve the doubt so that the security of our country would not be impaired.

I am satisfied in my own mind as to the need for this second provision and the wording of the language. When we went before the Committee on Rules they had the same problem in their mind. This is language which has been cleared by the Committee on Rules and it spells out what we had in mind when the matter was considered by the committee. It seems to me this is as far as we can go in considering the nature of the matter under discussion. Therefore, I ask that the substitute be defeated and the amendment of the gentleman from South Carolina be passed.

Mr. JOHANSEN. Mr. Chairman, will the gentleman yield?

Mr. BATES. I yield to the gentleman from Michigan.

Mr. JOHANSEN. I wonder if some of the misgivings and concern that are being expressed here, and which I share, do not arise from the fact that the bill that the committee brings to the floor has a completely wide open door. Ap-

parently the committee itself had a serious second thought on the matter and evidences that serious second thought by offering what purports to be a restrictive amendment.

Mr. BATES. I will say to the gentleman the thought we have is not a second thought but a primary thought. We thought about this originally. This matter which developed today is to be expected. Anyone who considers this bill would understand this would be the first thought that would come to their mind. After we went into it in great detail the committee received the assurances of the CIA as to what they had in mind. We were satisfied with these assurances.

Mr. JOHANSEN. Mr. Chairman, I move to strike out the last word.

Mr. Chairman, I just raise the question again—and I do not want to be unfair to or critical of the committee, but if, as the gentleman has said, this was a matter of such earnest thought, it seems to me that it would have been more timely to propose this corrective feature before the bill was brought out of the committee. But beyond that, the thing that concerns me—and I think I can conceive of a situation very readily in which it is impossible for security reasons to spell out or itemize the types of employment or position or job classification that are covered—but is it possible in some way, in expressions of members of the committee to give the clear legislative intent in connection with this particular matter which will preclude the very thing which the members of the Committee on Post Office and Civil Service are so much concerned about?

Mr. HARDY. Mr. Chairman, will the gentleman yield?

Mr. JOHANSEN. I am happy to yield to the gentleman from Virginia.

Mr. HARDY. I think the only way that that could be cleared up—and it cannot be expressed here on the floor—is this. I will say to the gentleman that the transcript of the hearings is complete, that all of these phases were discussed fully by the subcommittee over a long period of time. There are classified transcripts of the hearings that are in the committee safe, and they establish without question the intent of the CIA with respect to the application of this proposal.

Mr. JOHANSEN. I assume, therefore, that I have the commitment of the gentleman from Virginia that the subcommittee of the Committee on Armed Services will police the matter to see that that intent is not violated?

Mr. HARDY. I am assured by the chairman of the full committee that the matter will be policed.

Mr. RIVERS of South Carolina. Mr. Chairman, will the gentleman yield?

Mr. JOHANSEN. I yield to the chairman of the subcommittee.

Mr. RIVERS of South Carolina. Mr. Chairman, I was going to give the gentleman the same assurance that the gentleman from Virginia [Mr. HARDY] gave. What I read was this: In certain phases of the Agency's activities there are requirements for unusual specialties requiring long years of arduous training for which in some cases there could be

19602

CONGRESSIONAL RECORD — HOUSE

October 30

no utilization in normal employment pursuits.

If you need anything else, you may have it from our committee secret file.

Mr. JOHANSEN. I understand the gentleman in effect to say that there are what amount to temporary job requirements.

Mr. RIVERS of South Carolina. Positively. We cannot tell everything we know. We must ask you to believe that we have gone into these matters.

Mr. JOHANSEN. The gentleman I am sure knows that I am prepared, certainly, to believe him.

Mr. RIVERS of South Carolina. The gentleman has all the assurances that we have carefully policed this work.

Mr. GROSS. Mr. Chairman, will the gentleman yield?

Mr. JOHANSEN. I yield.

Mr. GROSS. The gentleman from South Carolina says that this early retirement is necessary in part to take care of specialties, and he mentioned electronics. I imagine we have several thousand specialists in electronics throughout the Government. If we are going to provide early retirement for all the specialists in electronics throughout the Government, that \$38 billion that the retirement fund is in the red will be \$50 billion if this is the criteria you are going to use to try to convince us that we ought to give early retirement to whomsoever the Director of the CIA may select.

Mr. RIVERS of South Carolina. Mr. Chairman, will the gentleman yield?

Mr. JOHANSEN. I yield.

Mr. RIVERS of South Carolina. Mr. Chairman, in response to the gentleman from Iowa there are many specialties. I happened to mention electronics. There are many that we cannot mention. We know what they are. But we cannot here open up the heart of the CIA to everybody.

Mr. JOHANSEN. Of course, we do not expect the gentleman to do that and we would not request it for a moment. In taking this time I believe I have received what I asked for, which was the assurance that there was a clear legislative intent in the record of the subcommittee and the assurances of the committee and the subcommittee chairmen and the distinguished chairman of the full committee, that the matter would be carefully policed.

Mr. RIVERS of South Carolina. The gentleman has it.

Mr. JOHANSEN. I appreciate that. I will say too that I trust the gentleman understands a little bit of the distrust that some of us on the legislative committee have toward the bureaucracy.

The CHAIRMAN. The question is on the substitute amendment offered by the gentleman from Iowa, to the amendment offered by the gentleman from South Carolina.

The question was taken; and on a division (demanded by Mr. GROSS) there were—ayes, 20, noes, 67.

So the substitute amendment was rejected.

The CHAIRMAN. The question now recurs on the amendment offered by the gentleman from South Carolina.

The amendment was agreed to.

AMENDMENT OFFERED BY MR. JONES OF MISSOURI

Mr. JONES of Missouri. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. JONES of Missouri: On page 2, line 15, strike the period and insert a semicolon followed by "such rules and regulations to become effective after approval by the chairmen and ranking minority members of the Armed Services Committees of the House and Senate."

Mr. RIVERS of South Carolina. Mr. Chairman, will the gentleman yield?

Mr. JONES of Missouri. I yield to the gentleman from South Carolina.

Mr. RIVERS of South Carolina. We accept your amendment.

Mr. JONES of Missouri. I thank the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Missouri [Mr. JONES].

The amendment was agreed to.

Mr. MILLER of California. Mr. Chairman, I move to strike the requisite number of words.

(Mr. MILLER of California asked and was given permission to speak out of order and to revise and extend his remarks.)

Mr. MILLER of California. Mr. Chairman, we have all listened now to a lot of interpretations concerning what Premier Khrushchev meant when he talked about the Soviet moon program on October 28. I would like to point out that most of the interpretations which have been enunciated thus far have come from those with no direct connection with, or responsibility for, the space program. I have taken the trouble to look up the exact transcript of Mr. Khrushchev's remarks and I heartily commend it to the attention of every Member of House. A careful reading of what Mr. Khrushchev actually said, to my mind, does not indicate that the Soviets are cutting down on their own space program; it does not indicate that they are not heading for a manned lunar orbit in the near future; it does not indicate that they are abandoning any part of their original plans.

Let me make one other point. The fact that we have not heard much lately concerning any deep space efforts on the part of the Soviets does not at all mean that they have not been attempting them. We can be pretty certain that they have been making a number of complex attempts which in one way or another have not succeeded. They, like ourselves, have run into a very advanced technical area where the developmental going is rough. Very possibly they are having enough scientific and engineering troubles to keep them relatively quiet.

Mr. Speaker, the precise comments of Chairman Khrushchev follow:

Journalist Leopold Vargas, of Colombia asks: Can you tell us whether a flight to the moon by Soviet cosmonauts is planned for the not too distant future?

KHRUSHCHEV. It would be very interesting to take a trip to the moon. But I cannot at present say when this will be done. We are not at present planning flights by cosmonauts to the moon. Soviet scientists are working on this problem. It is being studied as a scientific problem and the necessary research is being done. I have a report

to the effect that the Americans want to land a man on the moon by 1970-80. Well, let's wish them success. We shall see how they will fly there, how they will land on the moon and, more important, how they will start off and return home. We shall take their experience into account. We do not want to compete with the sending of people to the moon without careful preparation. It is clear that no benefits would be derived from such a competition. On the contrary, it would be harmful as it might result in the destruction of people. We have a frequently quoted joke: He who cannot bear it any longer on earth may fly to the moon. But we are all right on earth, to speak seriously, much work will have to be done and good preparations made for a successful flight to the moon by man.

Mr. Chairman, I want to reiterate what I have said on this floor many times, that in sending a man to the moon we are doing so not because we are in competition with the Russians or anyone else but because this program is designed as a part of the scientific facet of the exploration of outer space. The information we develop from this program will be used in that exploration. I for one am not ready to see the leadership in this field surrendered to the Russians.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker having resumed the chair, Mr. THOMAS, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 8427) to provide for the establishment and maintenance of a Central Intelligence Agency retirement and disability system for a limited number of employees, and for other purposes, pursuant to House Resolution 543, he reported the bill back to the House with sundry amendments adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment?

If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER. The question is on the passage of the bill.

The bill was passed.

A motion to reconsider was laid on the table.

RETIREMENT OF LINDSLEY H. NOBLE

(Mr. GARY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GARY. Mr. Speaker, on the last day of this month Mr. Lindsley H. Noble will retire from his position as Deputy Assistant Postmaster General and Controller of the Post Office Department. When Mr. Noble joined the Post Office Department on September 1, 1955, as its